HOUSE OF REPRESENTATIVES—*Thursday, October 31, 1991*

The House met at 10 a.m.

The Dr. James R. Ray, European director, Baptist International Missions, Inc., Chattanooga, TN, offered the following prayer:

Our Father, as we assemble today in this place to assume the duties set before us, we acknowledge our need of your guidance. We are reminded that it is Your providence that has allowed us this sacred trust of leadership. We remember the words of Jeremiah the prophet when he said to his country, "truth is perished."

May we not forget, Lord, our sacred duty to keep truth from perishing in our country. Give us wisdom and guidance. Teach us to lean upon You, and not upon ourselves. Help us to keep our own hearts right so that we might govern right.

We lift our prayers to Thee for peace in the world and peace in our hearts through Jesus Christ your son. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

Mr. SPEAKER. Will the gentleman from New Hampshire [Mr. SWETT] come forward and lead the House in the Pledge of Allegiance.

Mr. SWETT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1350. An act to formulate a plan for the management of natural and cultural resources on the Zuni Indian reservation, on the lands of the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation, and in other areas within the Zuni River watershed and upstream from the Zuni Indian Reservation, and for other purposes;

S. 1467. An act to designate the U.S. courthouse located at 15 Lee Street in Montgomery, AL, as the "Frank M. Johnson, Jr. United States Courthouse";

S. 1530. An act to authorize the integration of employment, training, and related services provided by Indian tribal governments;

S. 1889. An act to designate the U.S. courthouse located at 111 South Wolcott in Casper, WY, as the "Ewing T. Kerr United States Courthouse"; and

S. 1891. An act to permit the Secretary of Health and Human Services to waive certain recovery requirements with respect to the construction or remodeling of facilities, and for other purposes.

THE REVEREND DR. JAMES R. RAY

(Mr. RAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAY. Mr. Speaker, I rise to introduce my youngest brother James Ray to my colleagues and to express my appreciation for this opportunity of delivering this morning's invocation.

I want to share my pride with you on the accomplishments of my brother. We both came from proud but humble beginnings. Our parents were third generation Georgia farmers, and we were both born on a 200-acre, two-horse farm in rural Crawford County, GA. We have not forgotten from whence we came.

Our religious roots began in the Little Union Primitive Baptist Church in our home county. Our mother was one of the strongest Christians that I have ever known and any success in our lives must be attributed to her love, guidance, and firm discipline.

James came to know the Lord as a very young person during a revival which was conducted by Ed Beck, a young preacher who was the captain of the Kentucky Wildcats basketball team at the University of Kentucky in the early sixties. Ed was also our brother-in-law.

James entered Tennessee Temple University in Chattanooga and earned his way through college. He worked at night in the bleaching and dyeing division of a woolen mill and preached at small churches in the Tennessee mountains on Sundays.

He met his wife Mary at school, and they have two children and two grandchildren.

He received graduate degrees from Luther Rice Seminary and Trinity Theological Seminary.

After pastoring in churches in Tennessee, Illinois, and Alabama, he became interested in the mission field and after prayerful consideration made the decision to devote his life to mission work.

He chose the Baptist International Missions in Tennessee which was just beginning to experience limited success in establishing foreign missions.

BIM tested its candidates very thoroughly by requiring that once they were accepted, it was necessary for them to work for 1 year or more in churches around the United States building up commitments of financial assistance and pledges.

Once adequate assistance was assured to sustain the candidate in a foreign land for a period of time, an assignment was made.

They are sent to a community with a challenge to build a church from the ground up by raising the necessary funding while preaching the Baptist faith.

His first mission assignment was Brisbane, Australia, and he later established a mission in Corby, England.

In 1979, he was appointed European director of the Baptist International Mission, and today he is director over 125 missionaries in 15 European countries. He is actively working in all of Europe, which is his assignment.

He and his mission board are heavily involved in Eastern Europe and have found that the Christian religion is alive and strong in Eastern Europe even after decades of Communist suppression.

A revival in Romania in July brought out 5,000 to 10,000 people each evening during the week, and over 1,000 were converted.

Mr. Speaker, I say to my colleagues that I appreciate the privilege of introducing my brother, the Reverend Dr. James Ray.

Jimmy and Mary selected Baptist International Missions in 1969 to fulfill his call to missionary service. They were sent to Australia where Jimmy preached in 100 churches in 7½ months. While there, they built the Life Gate Baptist Church of Brisbane, Queensland, and established a Bible college. Four years later, with a church building program underway and a sizable congregation established, Jimmy and Mary moved to England where he started the Life Gate Baptist Church in Corby, Northamptonshire.

Jimmy assumed the role of European director in 1979, but he still considers himself a missionary. He has traveled hundreds of thousands of miles in Europe and America, and has seen scores of young people become missionaries within the Baptist International Missions' umbrella.

As European director, my brother oversees the work of missionaries in 15 European countries including some in the Eastern European bloc. In July of this year, the mission held a revival in Romania which attracted over 6,000 attendees with over 1,000 converting.

Baptist International Missions is an extremely devoted organization whose influence and teaching spreads across the world. It was formed in 1960, and now is represented in 65 countries by over 1,000 missionaries.

The missionaries of the Baptist International Mission are a very devoted group. For instance, their subsistence support comes strictly from commitments they can obtain from churches and the community in which they live. In addition, support for the worldwide mission organization is very widespread with assistance coming from over 8,000 independent Baptist churches.

NO ACTION ON PRESIDENT'S DOMESTIC AGENDA

(Mr. GILLMOR asked and was given permission to address the House for 1 minute to revise and extend his remarks.)

Mr. GILLMOR. Mr. Speaker, over the last few weeks, we have been inundated with legislative proposals and rhetoric and press conferences about reviving our sluggish economy. However, I should point out that based on figures released this week, the economy did begin to grow again in the most recent quarter. Indeed, it grew at the reasonably healthy rate of 2.4 percent. Some of the proposals which have been made have a great deal of merit, such as capital gains tax cut and expanded tax breaks for savings. Some of this rhetoric has finally prompted some Members of Congress to think about taking action, including leaders in the House and Senate.

This recent flurry of activity has come from both sides of the aisle. What really needs to be pointed out, though, Mr. Speaker, is that these proposals need to be openly debated in this House. The President proposed several growth incentive measures in his budget last February—there has been no congressional debate, and no congressional action, on these proposals. The President proposed his domestic agenda months ago. The ruling party of this Congress is to blame for failing to enact growth initiatives, and for not helping to bring about economic recovery.

PRESIDENT SHOULD SIGN EXTENDED UNEMPLOYMENT INSURANCE

(Mr. BUSTAMANTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUSTAMANTE. Mr. Speaker, last month, construction declined, industrial production flattened, auto sales went down, steel production fell, and consumer confidence in the economy eroded. During this same time period, President Bush met with leaders of 21 foreign countries, including Micronesia and Lichtenstein, and only three meetings with Cabinet Secretaries on domestic issues.

When the House passed legislation to extend unemployment benefits last month, President Bush was meeting with Peruvian President Albert Fujimori. A few days later when the Senate debated and voted on an unemployment benefits bill, the President was at the U.N. meeting with leaders of Norway, the Marshall Islands, Micronesia, Iceland, Cambodia, Venezuela, and Lebanon.

Last week, the big three auto makers reported record losses. This week Federal Reserve Chairman Alan Greenspan said the "economy turn demonstrably sluggish." And yesterday it was reported that new home sales plunged almost 13 percent, even though interest rates are at their lowest levels in 15 years. These are not signs of a healthy economy.

The President deserves our support for a successful outcome in the Middle East peace talks in Madrid, and he is to be commended for getting the Madrid conference off to a good start. But now is time to take care of our own, and he can do that by signing an extended unemployment insurance that Congress will be sending to him in the next few days or weeks.

TIME TO HALT TRASHING OF AMERICA

(Mr. PAXON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAXON. Mr. Speaker, as a result of a USDA decision in July, Canadian garbage is now allowed to flow unrestricted into our Nation.

In September, the USDA agreed to my request to conduct a full, substantive, and technical review of their July decision.

Well, Mr. Speaker, their report is in, and unfortunately, it raises more questions than it answers.

The USDA outlines 21 plant pests introduced into Canada and not known to occur in our Nation. They also specify serious animal diseases, and this is but a preliminary study, and yet they say Canada can still send more trash, completely unaddressed, the risk to public safety from millions of tons of uninspected Canadian garbage; for example, no control over inclusion of toxic or hazardous wastes.

To all this, the USDA says, "no risk."

Well, Mr. Speaker, western New Yorkers know differently, and we want action from our Government.

Along with my colleagues, the gentleman from New York [Mr. MARTIN] and the gentleman from New York [Mr. WALSH] and Senator D'AMATO, we have introduced legislation to again regulate Canadian solid waste imports.

Mr. Speaker, it is time to halt the trashing of America, and do it now.

THE SLUGGISH ECONOMY

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, one of my colleagues on the other side of the aisle asked a good question just a couple minutes ago about why has there not been economic growth. I might point to the fact that during the last 10 years in which this country has been under a Republican administration, and particularly under President Bush's leadership, the result has been not jobs gained, but jobs lost; 300,000 jobs less than when the President raised his hand on the steps of the Capitol just 3 short years ago, 300,000 jobs less in this country than there were then.

□ 1010

Growth record, seven-tenths of 1 percent in the first 2 years of his administration, an all-time low.

But the folks at home do not need statistics, they know, they know that they cannot get a mortgage, they are having trouble making car payments; they know they are worried about whether or not to make out the tuition check; they know they do not want to buy something that is going to be expensive, because of what it may mean for the future.

What do they have to look forward to for relief? Well, President Bush has been meeting, all right, on the issue; he met with 21 world leaders while he has had three meetings on the economy.

Perhaps the answer is, if you are really concerned, maybe if you go to Rome next week or next month, you can talk to him, catch him in Singapore, perhaps in Japan when he is visiting there.

The answer is we have got to come home, we have got to take care of our own.

WE CAN UPHOLD CIVIL RIGHTS WITHOUT DESTROYING SMALL BUSINESS

(Mr. IRELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. IRELAND. Mr. Speaker, yesterday, the other body overwhelmingly approved a civil rights bill that will not force smaller businesses into adopting quotas and that provides reasonable caps on damage awards in discrimination suits.

This is good news for both employers and employees.

I have said from the beginning of the civil rights debate that we need to restore the balance in these cases that has been skewed by a string of Supreme Court rulings.

My concern is in assuring that balance is indeed restored, not simply skewed in the other direction.

I hope that we in this body will also have the opportunity to vote for a reasonable civil rights package that will not force quotas or bankrupt smaller firms with unrealistic damage awards.

Such a bill would be a triumph for civil rights and for small business.

If such a bill is enacted, those of us who voted against the quota bill will have done much more than simply say that we're for small business.

We will have cast votes that really count.

INTRODUCTION OF COMMUNITY HEALTH CARE ACT OF 1991

(Mr. JOHNSTON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSTON of Florida. Mr. Speaker, in 1965, when we passed the Medicare and Medicaid Programs, we believed that the United States had finally created a system of universal health care. We were wrong.

Today, we share the dubious distinction with South Africa of being one of two industrialized countries without a universal health insurance system. The current piecemeal system of health insurance is far too confusing and fraught with loopholes that often leave the ill without adequate care. We have reached an impasse, and comprehensive reform is now vital to the economic, social, and moral health of our country.

Today, I am introducing the Community Health Care Act of 1991. This legislation creates a partnership between Federal, State, and local government for the provision of universal health insurance. This is a national program with State and local flexibility. Our solution to the health care crisis must be comprehensive; however, it must also be rooted in a local administration which is knowledgeable of local resources and conditions.

My plan is a variation of the single-payer proposal. It includes limited cost sharing and it encourages partnerships with private insurance companies. The Community Health Care Act has the potential to facilitate a broad consensus. I hope you will join me in finally giving Americans the dignity of a universal health insurance program.

THE BECK DECISION AND THE WORKERS' POLITICAL RIGHTS ACT

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, Thomas Jefferson once said "To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical." These words ring truer than ever today.

Under the National Labor Relations Act, the Railway Labor Act, and the Federal Election Campaign Act we are compelling workers to furnish contributions of money for the propagation of opinions which they disbelieve. Jefferson called that tyranny. I agree. In 1988, the U.S. Supreme Court also agreed in the decision of Beck versus Communication Workers of America.

As we take up campaign finance reform, let's use this opportunity to right this wrong. Let us support the political rights of workers. Let us incorporate the Supreme Court's Beck decision into any campaign finance reform that we take up.

My bill, H.R. 2915, the Workers' Political Rights Act, would do just that, allowing union dues payers to get a reduction in dues equal to that portion of their dues which go to political purposes. Without such protection, any campaign finance proposals would be far off the mark and I would oppose them.

SOLUTION SHOULD HELP ALL AMERICANS

(Mr. DOOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLEY. Mr. Speaker. President Bush finally awakened to the need to ensure equal rights for all Americans and supported the civil rights bills.

Let's hope he will also come to the realization that millions of unemployed Americans who have exhausted their jobless benefits need some help.

An extension of exhausted benefits would be a sure-fire boost to these families and for our stalled economy.

Congress says yes, the American people say yes, but to date our President says "no." Instead, he talks in vague terms about a growth package.

Let us be serious. Let us work for a benefits extension that provides assistance to hard-working Americans today, not the false promises of a trickle-down recovery months from now.

Americans suffering in this recession deserve at least that from President Bush and from this Congress.

BUDGET SUMMIT AGREEMENT PRODUCES LARGEST TAX INCREASE IN HISTORY AND BIGGEST DEFICIT IN HISTORY

(Mr. DOOLITTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLITTLE. Mr. Speaker, today marks the 6th day until the first anniversary of the infamous 1990 budget summit agreement. This budget summit agreement approved the largest tax increase in our history. Ironically, this year will produce, as well, the biggest annual budget deficit in our history.

Indeed, during the first 2 years of this 5-year agreement, we have already exceeded the total deficit projections for the entire 5-year period covered by the 1990 budget summit agreement.

This agreement has been a miserable failure. Real economic growth has now been negative for the past 3 consecutive quarters.

The projected recovery is expected to be so sluggish that it could result in a permanent decline in the American standard of living.

The cumulative loss in the real gross national product by 1996 will exceed $8,000 for every man, woman, and child in this country.

Mr. Speaker, we need to undo the failed budget deal of 1990. We need to cut taxes across the board, now, before Congress adjourns this year.

TIME TO PUT THE GHOSTS OF THE PAST BEHIND US—CONGRESS SHOULD FOLLOW THE SAME REGULATION AS OTHER AMERICANS

(Mr. SWETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SWETT. Mr. Speaker, today is Halloween. But the scariest thing that is facing Congress is not the ghosts and goblins that come out tonight, but the fear of applying to ourselves the same laws and regulations that we impose on everyone else.

Congress adopted legislation to protect employees against discrimination, assure the health and safety of workers, and prevent sexual harassment—and then Congress exempted itself from these requirements. Many of us who are new to this institution have been horrified to find this situation.

There is a valid constitutional argument involving the separation of powers that makes it inappropriate for executive branch agencies to have jurisdiction over the legislative branch. But there are creative ways to deal with that problem, and it is time for creativity.

Mr. Speaker, we in the Congress must observe the same laws and regulations that govern other Americans. Employee protections should be applied to our own employees, and we should take that action immediately.

It is time that we drive a stake through the heart of the notion that we in Congress are above the law.

HEARTY CONGRATULATIONS TO WAMU ON THEIR 30TH ANNIVERSARY FROM MEMBERS THROUGHOUT THE COUNTRY

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, I take the well because I am very concerned, in fact I was distressed, at three speeches that I heard delivered here in the last week; two came from that side of the aisle and one from this side of the aisle.

I am not concerned about the content of the speeches, but it is the lack of geographic diversity of those who spoke here.

We heard from the Delegate from the District of Columbia, ELEANOR HOLMES NORTON, we heard from the gentleman from Virginia [Mr. MORAN], representing northern Virginia, and the gentlewoman from Maryland [Mrs. MORELLA]. They were congratulating WAMU on their 30th anniversary.

Mr. Speaker, I want you to know that there are Members from throughout the country who, when here in Washington, DC, happen to enjoy "Morning Edition," "All Things Considered," "Fred Fiske," and other programs. In fact, I can tell you that my colleague from California [Mr. DYMALLY], our colleagues from New York, Mr. RANGEL, and Mrs. LOWEY, have told me repeatedly of the fact that they would want to congratulate WAMU on their 30th anniversary.

□ 1020

So, Mr. Speaker, I am happy to say that it is not just Representatives from the metropolitan area who want to join in extending hearty congratulations to WAMU, 88.5, National Public Radio.

RUN, MARIO, RUN

(Mr. FOGLIETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOGLIETTA. Mr. Speaker, I rise today to urge Mario Cuomo to run for President of the United States of America.

At this time, America needs a President who is concerned about the problems of Americans. Our Senate race in Pennsylvania teaches us that the American people are profoundly concerned about basic family needs: obtaining quality health care, getting their children a good education, keeping their job, making ends meet.

We have a lot of good Democratic candidates, but none can articulate the issues confronting the family of America better than Mario Cuomo.

Yes, the State of New York has serious fiscal problems, the same fiscal problems facing all States and cities in our Nation.

I believe the root of these fiscal problems are the policies set in this city—by the President, but also by this Congress.

I am confident, Mario, that the people of New York can survive another 9 months as you run for President, but I doubt and am not confident that the people of the United States can survive another 4 years under the policies of George Bush.

Run, Mario, run.

THANKS TO MARIO CUOMO, NEW YORK IS THE TAX-AND-SPEND CAPITAL OF THE UNITED STATES

(Mr. LENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LENT. Mr. Speaker, as this is the year before a Presidential election, we can again see the traditional political rumblings coming from the capital of my home State of New York. The midnight oil is burning in the Governor's mansion in Albany as its occupant reflects on the election of 1992.

But, while the Governor is busy pondering campaign themes, the people of my Long Island district must deal with the devastating effects of his 10 years in office. My constituents must cope with their oppressive tax burden—ranked the highest in the Nation—which supports ever increasing levels of State spending. Thanks to Mario Cuomo, New York has gained the distinction of being ranked No. 1 as the tax-and-spend capital of the United States.

But it is getting even worse. On Long Island, large increases in local taxes are on the way to make up for the Governor's unconscionable cuts in funding for education. For the record, Mr. Speaker, school officials in my district have informed me that Governor Cuomo has cut $240 million in aid to Long Island school districts this year.

Mr. Speaker, while I wish Governor Cuomo well in his quadrennial quest for peace of mind and career fulfillment, it is my hope that he will find some time to reflect on Long Island's need for relief from his oppressive taxes.

IT'S TIME TO TAKE A STAND ON ILLEGAL TRADE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, top officials of the U.S. Trade Office are former employees of foreign companies. Now they are not clerks either. They are top decisionmaking officials. In fact, U.S. Trade Representative Carla Hills herself is a former employee of a foreign company.

Now tell me, with trade representatives like this, who fights illegal trade? Who fights illegal dumping? Who fights illegal subsidies taking our jobs, wrecking our economy? Evidently nobody.

Mr. Speaker, it is trick and treat over at the Trade Office. I think it is time for Democrats to start speaking out. No one is against free trade, but when we have a Trade Office that will turn their back on illegal trade taking our jobs, then Democrats are hypocrites talking about tax cuts.

Mr. Speaker, it is time for the Democrats to lay some ground rules here and take a stand on illegal trade before every job we have is overseas.

THE ACTIVITIES OF "HIS CORP."

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute.)

Mr. DANNEMEYER Mr. Speaker, how may times have you gone to rent a video from a family video rental store only to be surprised or shocked by the language, sex, or violence contained in the film? If you are like the average person, you probably shut the movie off and admit the movie's promoters hoodwinked you again.

Leah Duet, owner of HIS Corp., in Escondido, CA, has solved this problem. Ms. Duet has made a business out of sanitizing some of Hollywood's more popular movies. Granted, many films in Hollywood are not salvageable for decent people, but Ms. Duet does her best to give American families good entertainment in a wholesome context.

Mr. Speaker, this commitment has my support. In a day and age when the family and religion have become whipping boys for most of Hollywood, the work of Leah Duet and others like her should be encouraged.

WE MUST MAKE THE CORRECT DECISION ON BANK REFORM LEGISLATION

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, today, tomorrow, and part of next week we will be debating and trying to settle the issue of bank reform. There will be basically two versions before the House. Both versions tighten supervision of banks to be sure that we can identify the failing banks early enough to solve the problem, both bills tighten capital standards to make our banks more solvent, and both deal with the recapitalization of the bank insurance fund and of the Federal Deposit Insurance Corporation [FDIC] both of which protect deposits in failed banks.

The main difference in the two versions will come in the type of additional powers to be granted to the commercial banks. One lets the banks into total interstate banking, totally into the securities industry—and we well remember what happened in 1987 on Wall Street—into the insurance industry, and we know now that many insurers around the country are failing leaving beneficiaries and pension plans at risk.

Mr. Speaker, we certainly want to be sure that commercial banks can compete in this new day and age, but at the same time, if we have to err, Mr. Speaker, we certainly do not want to err on the side of incaution. We need to proceed cautiously to protect depositors as well as making sure that our banks can compete.

PORTUGUESE CITIZENS SHOULD BE ABLE TO VISIT OUR COUNTRY WITHOUT A TOURIST VISA

(Mr. MACHTLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MACHTLEY. Mr. Speaker, this February we will celebrate the 200th year of our diplomatic relations with the country of Portugal, yet on September 13, when a list was published extending the names of countries whose citizens we permit to visit this country without a tourist visa, three countries were conspicuously absent from this list: Greece, Ireland, and Portugal.

Mr. Speaker, there are some 1,200,000 Portuguese in this country. Unfortunately our State Department creates a presumption that anyone visiting this country is going to stay in this country, and so those people who go to get a tourist visa are often denied a right to visit their relatives and friends in this country because they cannot show a family, a job or other financial responsibility in their home host country. This is unfair.

Portugal has been a long-time friend of the United States. It is a member of NATO, a member of the Economic European Community. We have bases and enormous economic ties with Portugal. I believe we are discriminating against these three countries who have been excluded.

Mr. Speaker, today I am filing a bill which will act as a test pilot program to include the Portuguese community within this test pilot program to permit their citizens to visit their family and friends in this country without a tourist visa. I would urge my colleagues to cosponsor this to end this discrimination.

WE MUST PROTECT OUR BANKING INDUSTRY

(Mrs. PATTERSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. PATTERSON. Mr. Speaker, trick or treat. It is Halloween, and today Congress has a scary task ahead of us. Today, we will be asked to vote on legislation to reform the Nation's financial industry.

Many people will remind us that the banking industry is not the savings and loan industry. That's absolutely true. But our fundamental concerns with these issues should be the same.

We must protect the depositors. We must protect the taxpayers. And finally, we must protect the safety and soundness of our banking industry.

When the Banking Committee first began to debate these issues, I expressed my opposition to the too-big-to-fail philosophy. Uninsured deposits, foreign or domestic, should not be protected at a cost to the bank insurance fund.

We must safeguard against the flight of deposits from our banks. Go home my friends. Go home and listen to your constituents. They want to know that their money is safe. We are experiencing a crisis—a crisis of economics and a crisis of confidence.

Radically altering the deposit insurance system would shake the confidence of Wall Street and Main Street. A loss of deposits would simply mean that the banks would have even less money to loan individuals and small businesses. We would take this country out of the credit crunch and thrust it into the credit vise.

We must make sure that the regulators not only have the authority, but exercise their authority, to shut down a failing bank before it sinks into the black hole of insolvency.

Mr. Speaker, we may disagree on the bill and the amendments we will debate, but in considering this, I urge my colleagues to listen to the folks back home, not the lobbyists in Washington.

□ 1030

JOB CREATION IS GOAL FOR AMERICAN WORKERS

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLBE. Mr. Speaker, Americans want jobs, not unemployment checks.

While this Congress has fiddled around, trying to get an unemployment compensation bill adopted that will somehow, magically, not have to be paid for by anyone, the economy has continued to sputter along. Better than it was a few months ago, perhaps, but not good.

What is needed is a stimulus to the economy. What is needed is capital, savings, investment—money that can create new jobs and make old jobs more productive. That is the only way we stay competitive with the rest of the world and keep our engine of economic growth going. Businesses—small and large, established companies and new, entrepreneurial endeavors—that is where jobs are going to be created, not by Government.

What I have just described is not a very novel prescription. It is called free market economics. If this Congress has forgotten what that means, just ask the people of Eastern Europe. Better yet, ask one of the thousands of craftsmen put out of work because Congress last year decided to tax the expensive cars and boats they used to build and service and sell.

We can differ about what we should be doing to create jobs, but we ought not to differ on the objective. Let us get off the kick about handouts. Let us give American workers a hand up.

AMERICAN FAMILIES FALLING BEHIND UNDER REPUBLICAN ADMINISTRATIONS

(Mr. SARPALIUS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. SARPALIUS. Mr. Speaker, in today's Washington Post there is a column by George Will. It spells out what Republican Presidential domination has done to this Nation's economy. I would just like to point out some of the highlights of Mr. Will's column.

He said that the wages of average workers today are below what they were in 1979. He talks about the fact that one of the biggest business in this country today is the day care business, because today in this country nearly all of our middle-aged American families have to have both husband and wife working to survive. They are twice as many working mothers with children today than there were 30 years ago. In the 1950's a middle-class family only spent about a tenth of their income on mortgage payments. Today they have to spend over half of their income on mortgage payments.

Mr. Speaker, tonight when we see children knocking on our doors, let us remember that 20.6 percent of those children or 1 out of 5 live in poverty.

Mr. Speaker, the scariest thing is that trickle-down economics clearly does not work. What makes it even more scarier is that there are Republicans who think that voodoo economics does.

GROWTH MEASURES HELD HOSTAGE

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, nearly 3 years ago, President Bush called on Congress to enact measures to stimulate economic growth and create jobs. He called for creation of a family savings plan, enterprise zones in areas of economic distress, and negotiation of free trade agreements to expand American exports. He urged cutting capital gains taxes to stimulate more job creating investment.

Was the Democratic leadership of the Congress listening? Apparently not. This is the most charitable explanation for their inaction on programs to end the recession and put Americans back to work.

Mr. Speaker, it is time to start listening. Let's roll up our sleeves and begin consideration of the economic growth incentives that President Bush called on us to enact almost 3 years ago.

WHAT'S THE PRESIDENT'S RESPONSE?

(Mr. PRICE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE. Mr. Speaker, as our Nation's economy continues to decline, Americans are waiting for President Bush's response.

So far, our President has created fewer jobs in his first term than any other President in 50 years. Under his watch, we've lost more jobs and had the slowest GNP growth of any postwar administration. Real disposable income has fallen since he took office. The wages of the average American worker are now 9 percent less than in 1979.

What's the President's response? He met with leaders of 21 foreign countries last month, including Micronesia and Liechtenstein, but only found time for three meetings with Cabinet Secretaries to discuss domestic issues.

If he needs evidence that more attention is needed, President Bush ought to come down to North Carolina. We're better off than most States, but our people are struggling. A few recent headlines tell the story: "20-year-old furniture firm closes stores." "US Air asking employees to take pay cuts." "Retail and auto sales declining."

Democrats are pushing for economic growth legislation—like the unemployment compensation bill, the highway bill, middle-income tax cut bill—to ease the burden of the recession on Americans. And we're taking steps to ease other burdens on the middle class, like a student loan bill that helps more middle-class kids go to college.

Meanwhile, what's the President's response? The Nation is waiting to find out.

THE REPUBLICAN AGENDA TO STIMULATE THE ECONOMY

(Mr. RIGGS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. RIGGS. Mr. Speaker, I will be glad to tell the Members on the other side what the President's response is.

Mr. Speaker, the American people want Congress to start doing something to help the economy. But the Democrat leadership is set on addressing measures that only provide short term solutions to the plight of the unemployed. What are the Democrats waiting for? Why will they not bring to the floor legislation to help stimulate the economy?

The Democrats are finding it easy to blame President Bush for being soft on the domestic agenda. But President Bush has many domestic and economic policies that specifically will help our economy. The Republicans want to give our citizens jobs, not unemployment checks. We do not want to see people on welfare, we want to do something to get our constituents off welfare. We want to pass legislation to help people get back on their feet, not keep them begging on their knees.

When are the Democrats going to bring legislative issues to the floor to help the economy. Republicans want to pass capital gains reductions, a family savings plan, a permanent R&E tax credit, enterprise zones, and other such legislation to help our economy.

I hope the Democrat leadership will stop blocking our effort to create jobs. It is time for the Democrats to quit dragging their feet and start addressing resolutions to the very real problems the people in America are experiencing.

SIGNIFICANT TRENDS SEEN IN PENNSYLVANIA SENATORIAL RACE

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. HOAGLAND. Mr. Speaker, we received the news today in the local newspapers that the appointed Senator, HARRIS WOFFORD, has now pulled even with former Attorney General Richard Thornburgh in the race for Senator Heinz' Senate seat in Pennsylvania. This is remarkable news, given the percentages that have been made up in that election race. What does this surprising news mean?

It means that the American people want this administration to work with Congress in addressing the very serious domestic needs of our Nation. It means that people want effective health care reform. It means that people want reasonable benefits for those who are unemployed because of the recession, to carry them through until they can find another job. It means that they want the budget balanced.

With the exception of the Clean Air Act and the child care legislation, the President has vetoed virtually every attempt we have made here in Congress to deal with our domestic problems. There have been over 20 vetoes of domestic legislation. "No, no, no, no," is all we hear from the White House.

Mr. Speaker, we need to get together on a nonpartisan basis and work out these problems.

CONGRESSIONAL EXEMPTION FROM LABOR, CIVIL RIGHTS, AND OTHER LAWS

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BENNETT. Mr. Speaker, in passing its version of the new civil rights bill yesterday, the Senate included a provision allowing Senate staffers to take job-related grievances to court. While I applaud those efforts, the legislation truly does not go far enough. It establishes an unnecessary bureaucracy that employees must navigate before seeking judicial remedy—the first course of action for some in the private sector. In addition, it only protects staffers under the Civil Rights Act; ignoring the many other laws which are applied to the private sector and should apply to Congress.

It was said during debate on the Senate floor yesterday that exceptions from such laws should be allowed on the basis that Members in both bodies are granted immunity by the speech and debate clause of the U.S. Constitution. While this is true for floor debate, it should not be the basis for exemptions from the very laws that we expect every other American to adhere to. We do not use the speech and debate clause to exempt ourselves from laws prohibiting thievery, rape, and murder. Why should we allow such an exemption for important legislation like the Equal Employment Opportunity Act, the Fair Labor Standards Act and the Freedom of Information Act? I urge my colleagues to consider this important question and act in the most fair and responsible manner as we confront this important issue.

On October 11, I introduced H.R. 3555, a brief and important bill, which eliminates the whole controversy of exempting Congress from the litany of laws this body does not follow. Further, it eliminates all the perks and privileges and does so in a practical way by seeing to it that we do not get privileges not allowed to the public.

My bill has been referred to the Committees on Government Operation, House Administration, and Education and Labor. It is my hope that one of those committees will act promptly and report out the bill. That would allow us to take this issue to conference with the Senate on the civil rights bill.

I submit a copy of H.R. 3555 for the RECORD.

H.R. 3555

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. From the date of enactment of this legislation Members of the U.S. House of

Representatives and of the U.S. Senate are no longer exempted from the laws of the United States, including, but not limited to, the following: The Americans with Disabilities Act, Title VII of the 1964 Civil Rights Act, The Equal Employment Opportunity Act, Occupational Safety and Health Act, Fair Labor Standards Act and Freedom of Information Act.

SEC. 2. From the date of the enactment of this legislation it shall be illegal to furnish, at the expense of the U.S. government, any Member of the U.S. House of Representatives or of the U.S. Senate any of the following items free or at reduced costs: medicine, hospital care, ambulance services, meals, flowers, plants, pictures, picture frames, haircuts, or other items, services, or privileges, except official office expenses, such as office supplies and stationery.

□ 1040

UNEMPLOYMENT COMPENSATION

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, I find little comfort that the President has suddenly discovered, at long last, that there are unemployed persons needing help.

I find little comfort, Mr. Speaker, that the President is just now hearing the loud clangling calls of distress that have been the headlines of our newspapers and television stations—for weeks.

In last Saturday's edition of the Atlanta Constitution, the President was quoted as saying, "People are hurting." Where have you been Mr. President? Did you not realize the affect that your two vetoes would have on Americans who have depleted their unemployment compensation benefits—in many cases by no fault of their own? There have been layoffs, Mr. President, and there will be more. Ask Citicorp, ask IBM, and ask Ford Motor Co.

If you need further proof Mr. President, come home to America, come to Georgia. We have some 78,000 Georgians that should be eligible for benefits. There are people in Georgia who had to sell their homes to supplement their unemployment benefits just to live. The local media reports that the job market is so tight that people can't even get in for interviews.

Mr. Speaker, there are approximately 98,000 of America's 24 million working families that are now headed by parents who have both lost their jobs.

Please, give these folks some comfort and sign the unemployment compensation benefits package. The American worker deserve your attention.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). Members are reminded to address their remarks to the Chair.

PROPOSED MILK STANDARDS GOOD FOR CONSUMERS

(Mr. TRAXLER asked and was given permission to address the House for 1 minute and to revise and extend is remarks.)

Mr. TRAXLER. Mr. Speaker, an ad in the Washington Post this morning really got my attention. The more I think about it the more I think it represents almost the epitome of misleading advertising. We should look at this ad for what it really is. It's the final futile attempt by the Milk Industry Foundation to cling to old, poorly conceived standards that use as their basis that the quality of milk from the poorest producing cow should be the standard. This means that all progress in breeding, feeding, and management since the standards were established should be ignored.

Milk as it comes from the cow has been enhanced by technology for years. It is cooled faster, kept cleaner, separated better than ever before. Dairymen, producers of the high-quality product, have been leaders in continually struggling for improved standards.

The standards which are proposed in a bill soon to reach the floor have been in effect in California for over 25 years. They are strongly supported by the California consumer because they require all processors to meet the same high standard. Competition by processor and retailers for market share can not be done at consumer expense through lower product quality.

CAMPAIGN REFORM: DO NOT SUBSIDIZE THE STATUS QUO

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, the Democrat campaign reform package allows candidates to spend $600,000—up to $200,000 of it from the taxpayer plus postal subsidies. This legislation makes a mockery of reform. It merely subsidizes the status quo.

Mr. Speaker, I'm a reluctant convert to the idea of spending caps. On television during the last election I saw commercial after commercial depicting candidates as criminals and liars. No wonder the American people think politicians are dishonorable—we have spent millions of dollars selling them on the idea. These ads are created by marketing people whose skills translate easily to electing candidates. They rarely have personal ties to the States where they operate and they don't care what their advertising does to public faith in democracy.

Mr. Speaker, if we are going to have spending caps, let us have caps with a bite—I suggest a maximum of $250,000. The Democrat's $600,000 cap does nothing but sanction business as usual—$10,000 union PAC contributions plus taxpayers kicking in up to $170 million for negative ads.

Mr. Speaker, think about it—Americans will pay the cost of negative ads that convince them not to vote or participate in government. Small wonder we have a $350 billion deficit with this kind of thinking.

SUPPORT RICHARDSON-SARPALIUS-SLATTERY AMENDMENT ON HOUSE BANKING BILL

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, along with the gentleman from Texas [Mr. SARPALIUS] and the gentleman from Kansas [Mr. SLATTERY], I will be offering an amendment that would permit out-of-State banks to open branches in a State only, and I repeat only, if that State passes a law specifically allowing them to do so. This is called the opt-in approach.

States could choose to allow interstate branching at any time by enacting such a law. If a State does opt in, incoming branches would be subject to any requirements, conditions, or limitations that may be established under State law. Consumers are supporting this provision.

Mr. Speaker, in one of the descriptions of the amendment it states that our amendment strikes the Community Reinvestment Act evaluation. This is simply a drafting error. It is not the case. This is being corrected. All Members should know that our amendment gets unanimous support from your small banks, consumer groups, and many others.

LIMIT DEPOSIT INSURANCE TO $100,000 PER PERSON PER INSTITUTION

(Mr. VALENTINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VALENTINE. Mr. Speaker, it is my understanding that later on today or later this week or next week as the House considers banking reform there will be an amendment offered which will limit deposit insurance to $100,000 per person.

Right now a family of four can arrange its deposits in a single institution so as to insure up to $1.4 million.

This insurance was not instituted to protect millionaires, but to protect small investors by assuring that their deposits would be safe in friendly insured banks.

Mr. Speaker, the banking industry will oppose this legislation. There are many, many of whom are good friends of mine, who will say this is not the time to send the wrong message. But I suggest to Members that there can be no meaningful bank reform, there can be no meaningful bank reform that will provide any kind of shield or any protection for the taxpayers in this country without reform which brings severe limitations on federally insured accounts.

DO NOT LIMIT DEPOSIT INSURANCE

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, multiple insured accounts are not the problem with failing banks today. There is not one bank in this Nation that has failed because of multiple insured accounts. It only affects 3 percent of those accounts

Imagine the headlines across America in the news media this week or next if we do limit deposit insurance accounts. The headlines will be "The House Cuts Deposit Insurance At Banks." There will be a run on the banks for their money. There will be a credit crunch at the banks. The economy will suffer.

The main reasons banks fail are bad loans to Third World countries, unwise corporate takeovers, and terrible loans and investments in real estate.

I would also urge Members as we go into House bill 6, the banking bill, to reject title IV. It was not written by the Committee on Banking, Finance and Urban Affairs, nor the Committee on Energy and Commerce.

I would urge Members to vote against title IV because it will definitely cripple the banks' ability to attract capital, and that, Mr. Speaker, will make your banks unable to continue to loan money to your constituents, including small businesses.

Mr. Speaker, if bank bashing is what is popular in your district, then title IV today under House bill 6 should be your vehicle. But I would urge Members to consider the fact that we are going to make banks less competitive and less capable of attracting capital if we pass House bill 6's title IV.

Mr. Speaker, again, look closely at title IV. I urge Members to vote no on title IV.

Mr. DREIER of California. Mr. Speaker, I ask unanimous consent that the gentleman from Kentucky [Mr. HUBBARD] be given an additional minute to continue with his argument.

Mr. FROST. Mr. Speaker, I object.

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman is entitled to only 1 minute. The House does not extend 1-minute speeches.

PROVIDING FOR FURTHER CONSIDERATION OF H.R. 6, FINANCIAL INSTITUTIONS SAFETY AND CONSUMER CHOICE ACT OF 1991

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 266 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 266

Resolved, That during the further consideration of the bill (H.R. 6) to reform the deposit insurance system to enforce the congressionally established limits on the amounts of deposit insurance, and for other purposes, a period of general debate shall be in order. After this general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, the bill shall be considered for amendment under the five-minute rule. When the Committee of the Whole resumes its sitting on H.R. 6 on the next legislative day, an additional period of general debate shall be in order, to be confined to the bill and the amendments made in order by this resolution and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs. After this period of general debate, the Committee will resume consideration of the bill under the five-minute rule in the manner specified by this resolution. In lieu of the amendments now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text entitled "Committee Print, October 30, 1991" as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read, and all points of order against said substitute are hereby waived. No amendment to said substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Said amendments shall be considered in the order and manner specified in the report and shall be considered as having been read. Said amendments shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment except as specified in the report of the Committee on Rules. Where the report of the Committee on Rules specifies consideration of amendments en bloc, then said amendments shall be so considered, and such amendments en bloc shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. It shall be in order at any time for the chairman of the Committee on Banking, Finance and Urban Affairs to offer amendments en bloc consisting of amendments, and modifications in the text of any amendment which are germane thereto, printed in the report of the Committee on Rules. Such amendments en bloc, except for any modifications, shall be considered as having been read and shall be debatable for not to exceed twenty minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs. All points of order against the amendments en bloc are hereby waived. The original proponents of the amendments en bloc shall have permission to insert statements in the Congressional Record immediately before disposition of the amendments en bloc. Such amendments en bloc shall not be subject to amendment, or to a demand for a division of the question in the House or in the Committee of the Whole. If both amendments numbered 8 and 9 are adopted, only the latter amendment which is adopted shall be considered as finally adopted and reported back to the House. All points of order against the amendments in the report of the Committee on Rules are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and any member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1050

The SPEAKER pro tempore. (Mr. MCNULTY). The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume. Any time yielded during debate on House Resolution 266 is for the purpose of debate only.

Mr. Speaker, House Resolution 266 provides for the further consideration of H.R. 6, the Financial Institutions Safety and Consumer Choice Act. As Members know, the House adopted House Resolution 264 yesterday and conducted 1 hour of general debate on the bill last night. House Resolution 266 makes in order the text for the consideration of the bill for amendment, additional general debate time, and for the consideration of amendments to H.R. 6.

Mr. Speaker, the Committee on Rules, faced with the enormous difficulty of not only structuring a rule and deciding which among the 78 amendments proposed to the committee should be included in the rule, but also with the necessity of preparing a text that would serve as an amendment vehicle for H.R. 6, has devised a rule which will allow the issues contained in this bill to be fully aired and debated. While some amendments proposed to the committee were not ultimately included for consideration, the committee feels that the recommended rule will allow the House to debate the major issues relating to banking and banking reform and will allow the House to work its will on a comprehensive bill.

Mr. Speaker, House Resolution 266 provides for 2 additional hours of general debate on the bill. The first hour, which is to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, shall be in order on the first legislative day the bill is considered. The rule also provides for 1 additional hour of general debate on the bill, to be equally divided and controlled by the chairman and ranking minority member of the Banking Committee when the Committee of the Whole resumes its sitting on H.R. 6 on the next legislative day.

After general debate on the first and second legislative days, the rule provides that the bill shall be considered for amendment under the 5-minute rule in the manner specified in the resolution. House Resolution 266 also provides that in lieu of the amendments now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text entitled "Committee Print, October 30, 1991" as an original bill for the purpose of amendment under the 5-minute rule. The rule also provides that the substitute shall be considered as having been read and waives all points of order against it. The text of the substitute, except for title IV, consists of the texts of the versions of the bill reported by the committees of jurisdiction. Title IV of the substitute, however, contains the text of that title drafted by the chairmen of the Committees on Banking and Energy and Commerce. The Committee on Rules recommends this substitute text for consideration as the amendment vehicle in order to simplify the consideration of a complex legislative package.

Mr. Speaker, the rule provides that no amendment to the substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. If I may, I would like to take a few minutes to explain the amendment procedure which we will follow over the next 3 legislative days.

First, the rule provides that the amendments shall be considered in the order and manner specified in the report, that they shall be considered as having been read, and waives all points of order against the amendments in the report. The amendments will be debated under the time limitations detailed in the report and such debate time is to be equally divided and controlled by the proponent and a Member opposed and will not be subject to amendment except as specified in the Rules Committee report.

The rule further provides that the Vento and Richardson amendments to title III of the bill, relating to interstate branch banking, will be considered under king-of-the-hill procedures. King-of-the-hill provides that only the last amendment adopted will be reported back to the House.

The rules also provides that the chairman of the Banking Committee may, at any time, offer amendments en bloc, consisting of amendments which are printed in the report and germane modifications to those amendments. The en bloc amendments, except for any modifications thereto, shall be considered as having been read and shall be debatable for not to exceed 20 minutes, equally divided and controlled by the chairman and ranking minority member of the Banking Committee. The rule waives all points of order against the en bloc amendments and provides that they shall not be subject to amendment, or to a demand for a division of the question in the House or the Committee of the Whole. In addition, the rule provides that the original proponents of the en bloc amendments shall be permitted to insert statements in the CONGRESSIONAL RECORD immediately before disposition of the en bloc amendments.

Finally, Mr. Speaker, the rule provides that at the conclusion of the consideration of the bill for amendment, the committee shall rise and report the bill to the House, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. Speaker, in order to clearly define the debate on the complex issues contained in H.R. 6, the debate on the various titles of the bill will be considered on specific days. Today, following general debate, it is anticipated that title I, safety and soundness, and title IV, financial services modernization, will be considered. Tomorrow, Friday, following the second additional hour of general debate, title III, nationwide banking and branching, will be considered. On Monday, it is anticipated that title II, regulatory improvement, and title V, Federal deposit insurance reform, will be considered. And, as provided in the rule, the en bloc amendments which may be offered by the chairman of the Banking Committee, will be eligible for consideration at any time.

Mr. Speaker, H.R. 6 represents the work of five committees of the House and represents the first major restructuring of the banking industry since the Great Depression. The bill seeks to provide not only a recapitalization of the bank insurance fund, but also to reform the Federal Deposit Insurance system and to ensure, in these times of fiscal uncertainties, the safety and soundness of our Nation's banks. The bill proposes major changes in the way banks do business and the types of business they conduct. H.R. 6 is a bill of major importance and deserves the full attention of the House and its Members. The Committee on Rules has structured a rule which the Committee believes will allow Members the opportunity to make important decisions about the future direction of the banking industry in our country. I urge adoption of the rule in order that the House may proceed to the consideration of this most important legislation.

□ 1100

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to House Resolution 266, which provides for the consideration of an extraordinarily perverted version of H.R. 6, which used to be known, by the now misleading moniker, as the Financial Institutions Safety and Consumer Choice Act of 1991. The leadership is taking Halloween a little too seriously when it has to disguise protectionist legislation as banking reform.

This rule, Mr. Speaker, is an affront to the legislative process, to the House committee system, and to my Banking Committee colleagues—on both sides of the aisle—who have toiled for nearly a decade to update our Nation's financial laws and regulations. It also continues the trend of shutting most Republican Members out of the amendment process.

Mr. Speaker, after a decade of exhaustive hearings on the issues of structural reform, deposit insurance reform, and regulatory reform, the Banking Committee reported out a landmark bill, H.R. 6, this past June 28. The 32-to-20 vote showed that there was a strong, bipartisan consensus that H.R. 6 was the vehicle that would allow our banking system to leap out of the 19th century—that is right, the 19th century—and into the direction of the 21st century as we approach the millennium.

The Energy and Commerce Committee, on the other hand, has really not undertaken the same type of comprehensive review of these issues. But in fairness, that committee did report out a bill by a vote of their entire committee on September 25.

The problem, Mr. Speaker, is that the bill, made in order by this rule, is neither the one adopted by the Banking Committee nor the one approved by the Energy and Commerce Committee. Rather, it incorporates a so-called compromise agreed to by only four-tenths of 1 percent of all of the Members of the House. The bill made in order by this rule was not voted on in either the Banking Committee or the Energy and Commerce Committee.

Mr. Speaker, I hold in my hand the committee print of the bill. We were in session late last night, and I suspect that my colleagues on the Rules Committee probably have not had time in the last 10 hours to read it, and frankly I have not either.

Furthermore, this rule structures the bill and the amendments to guarantee that we will be faced with a choice between supporting a bill that turns back the clock on financial market innovation, or killing the bill outright. Under both scenarios, Mr. Speaker, the taxpayers lose because they will have to shoulder the financial burden of cleaning up a tattered banking industry.

Imagine, if you will, Mr. Speaker, a scenario whereby the House is considering a comprehensive health care industry reform bill, and we are presented with a compromise agreement that would require all doctors to utilize the medical techniques of bloodletting. In many respects, the Dingell-Gonzalez substitute is similar in that it would require the banking industry to operate under an ancient set of rules and procedures.

For example, to justify the prohibition against mixing commerce and banking, they reach back to the British Parliament's charter of the Bank of England in 1694. There are two ironies in this, Mr. Speaker. First, it is that same Bank of England that now advocates affiliations between commercial firms and banks, something that virtually every other industrialized country permits.

Second, banking and commerce already mix, albeit on a one-way street. Ford Motor Co., General Electric, American Express, and Sears all have FDIC-insured subsidiaries. But the more than 9,000 banks are precluded from accessing billions of dollars in capital held by commercial firms.

The H.R. 6 this rule makes in order is the Freddie Kruger of banking legislation. It will increase foreign ownership of U.S. banking assets because our banks will have few domestic sources of capital to restore their profitability. It will prohibit banks from taking advantage of new innovations in the development of financial products and services, insuring that more banks will fail.

And what does the industry get in return? It gets a duplicative set of regulators, more paperwork reporting requirements, and higher insurance premiums. Mr. Speaker, the Glass-Steagall Act was progressive legislation compared to the Dingell-Gonzalez bill, which is highly regressive, blatantly protectionist, and anticonsumer.

This rule is a perversion of the legislative process, and it lacks basic fairness to Republican Members who deserve to have their amendments considered by the full House. Therefore, I strongly urge a no vote on this rule. Let's come back with an open rule.

Some people are opposed to that. I believe though that we should allow the Members of this House to work their will.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Georgia [Mr. BARNARD], the senior member of the Committee on Banking, Finance and Urban Affairs and chairman of the Banking Committee Caucus of Democrats.

Mr. BARNARD. Mr. Speaker, I thank the gentleman from Texas for permitting me to have this time.

If the gentleman would permit me to indulge him in several questions, I would appreciate it very much.

I would ask the gentleman from Texas [Mr. FROST], can he explain to me the justification of the Rules Committee in not permitting an amendment in order to consider the House Committee on Banking, Finance and Urban Affairs' version of title IV?

Mr. FROST. Mr. Speaker, will the gentleman yield?

Mr. BARNARD. I yield to the gentleman from Texas.

Mr. FROST. Mr. Speaker, in response to the gentleman I would say the decision was made by the Rules Committee in consultation with the Democratic leadership of the House. The decision was made to make the compromise agreement agreed to by the chairs of the two committees, the gentleman from Texas [Mr. GONZALEZ], and the gentleman from Michigan [Mr. DINGELL], the original text in order to simplify consideration of this very controversial legislation.

I cannot fully respond as to why once that decision was made then it would not be possible at a later point to substitute the original text as reported by the Committee on Banking, Finance and Urban Affairs. It was simply my understanding that it was a decision made to streamline consideration of this legislation and to place as original text an agreement made by the chairman of the two committees of original jurisdiction.

Mr. BARNARD. Let me just say then that I really think in consideration of that the rights of the House Committee on Banking, Finance and Urban Affairs have been tremendously violated. We considered this legislation for 5 months. We had adequate hearings. We spent time, we deliberated, we debated, and we came out with a 30-to-20 vote on this legislation.

When I talk about that, the leadership comes back and says yes, but the majority of Democrats did not vote for the bill. Let me say that is irrelevant. The relevancy is that out of 51 members of the Banking Committee there were 30 votes who voted for it. It is a committee of jurisdiction. It is a committee of legislation. It ought to be recognized. And I think it is dastardly, and I hate to say this about my leadership, but it is dastardly that they have violated the rights of that many Democrats as well as all of the Republicans on the Banking Committee.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. BARNARD. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, I thank my friend for yielding. I would like to associate myself with his remarks and underscore the fact that the gentleman is the chairman of the Democratic Banking Caucus Working Group. Could he explain what that is?

Mr. BARNARD. The gentleman is correct, that is what it is.

Mr. DREIER of California. I have explained it correctly?

Mr. BARNARD. The problem is even the Democratic Caucus did not have time to consider and vote on this proposed compromise. We did have a briefing.

Mr. DREIER of California. Mr. Speaker, I ask my friend, has he read this overnight?

Mr. BARNARD. No. I had to be on the floor last night until about 11 o'clock, so I did not do so. I did not have the ability to read that.

Mr. DREIER of California. I wanted to make sure, because the gentleman is very expert on these issues, and I assumed he might have had a chance overnight to read it.

Mr. BARNARD. Mr. Speaker, I want to say that except for this the Rules Committee I think has done a good job. They have been very selective in the amendments that have been selected to be offered, and they are for the most part the most appropriate amendments to be considered in light of what the bill does.

□ 1110

I think an open rule, with all due respect to my friend, the gentleman from California, an open rule would be a disaster, and I will compliment the gentleman.

But I will have to say that I feel a real disservice has been done to the committee process of this House when a legitimate committee of jurisdiction is absolutely ignored.

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. WYLIE], the very hard-working ranking member of the Committee on Banking, Finance and Urban Affairs who has toiled for many decades on this matter.

Mr. WYLIE. Mr. Speaker, I thank the gentleman for yielding me this time and for the compliment, and I would return the compliment to the very hard-working young man in the Rules Committee, who has also been a member of the Banking Committee at one time, and a distinguished member at that.

Mr. Speaker, I express opposition to the rule with some regret. I say regret, because I know that the committee chairman, the gentleman from Massachusetts [Mr. MOAKLEY] and the gentleman from Texas [Mr. FROST] worked diligently to bring this important legislation to the floor today, and we do need to act on it expeditiously, in my judgment, and the Rules Committee was very courteous to me when I appeared before them.

My primary opposition stems from the fact that we were not able to get a vote on the Banking Committee title IV. It is the same regret that the gentleman from Georgia [Mr. BARNARD] expressed a little while ago. I still think title IV, as reported out by the Banking Committee, is much better than the Dingell-Gonzalez arrangement, which was made in order as part of the original text. No committee consideration was ever given to the Dingell-Gonzalez title IV.

This procedure does not lend itself to bipartisanship. The politics of this bill are difficult enough as it is.

I appreciate the committee making in order an amendment to be offered by the gentleman from Texas [Mr. GONZALEZ] and myself on the insurance of multiple accounts.

We appreciate the making in order of a failing bank amendment. Although I think it should more properly have been made in order in title IV, it was made in order in title IV, which muddies up the issue to some extent in this Member's opinion.

There were two amendments I wanted to offer to modify the very restrictive firewalls in Dingell-Gonzalez, which were not made in order, and yet an amendment by the gentleman from Massachusetts [Mr. NEAL] which calls for duplicative and expensive reporting requirements, which will also be very expensive, was made in order.

An amendment by the gentlewoman from California [Ms. WATERS] to cap fees banks can charge for 2 years was made in order.

Price control by any other name would smell as sweet.

A Kennedy amendment requiring the use of racial testers to investigate charges of discrimination in lending practices was made in order.

Another amendment to give $500,000 deposit insurance coverage to nonprofit organizations, which could include a Member's campaign fund, was made in order. Give us a break, Mr. Speaker.

Another amendment would extend Federal health insurance coverage to former employees of failed savings and loans and banks.

What about steelworkers? What about textile workers or airline employees?

This amendment should never have been made in order.

The gentleman from Kansas [Mr. ROBERTS] wanted to make in order an amendment to give some relief to small banks to moderate the impact of the Community Reinvestment Act. It was not made in order.

As a matter of principle, I do not like the language with reference to the en bloc amendments, although the chairman, the gentleman from Texas [Mr. GONZALEZ] did consult me and withdrew three suggested en bloc amendments which I found particularly objectionable.

My real beef is with the procedure. It is not very democratic to small "d". The will of the clear majority of the Banking Committee has been frustrated, and I plan to vote "no" on the rule.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I thank the gentleman from Texas for yielding me this time.

Mr. Speaker, I rise in strong opposition to this rule and in fact if the rule is not defeated, strong opposition to this entire piece of legislation.

Mr. Speaker, welcome, the American people and Members of this Congress, welcome to the S&L bailout part 2. This time instead of bailing out the S&L industry, we are going to be asked to the potential of $30 billion—and most people expect it will be more down the road—to start bailing out the commercial banks.

Mr. Speaker, I offered a very simple amendment to this complex piece of legislation, and I said, "What happens if the banks are not able to raise the money themselves and it is the Treasury and the American people who have to come up with this $30 billion?"

I asked two questions. No. 1, a very simple question, who is going to be paying this $30 billion when they dump it into the deficit? It is going to be the elderly, the working people and the poor, or are we going to build into this legislation a mechanism to say that the wealthiest people in this country whose incomes have soared over the last decade, whose tax burden has declined, that maybe they should pick up the burden and not the middle class and not the working poor of this country. That did not get into this rule.

So you have got $30 billion on liability. Nobody knows who is going to pick up the burden, but I have got a hunch that it is the same people who are going to pick up the $500 billion for the S&L's.

I would like, if I might, to ask the distinguished gentleman from Texas a question.

I would like to ask the gentleman from Texas [Mr. FROST] am I right that we are talking about a potential of $30 billion to be fostered on the taxpayers?

Mr. FROST. Mr. Speaker, if the gentleman will yield, I say to the gentleman from Vermont [Mr. SANDERS] that I cannot answer questions about the substantive provisions of the bill. The gentleman will have to ask that to a member of the committee as to the exact dollar amount of obligation that the taxpayers will face.

Mr. SANDERS. Maybe I can ask this of the gentleman from Texas [Mr. FROST].

Is it not a bit strange that when in fact we are talking about a $30 billion taxpayer liability that this bill does not answer the question as to who is going to pick it up?

Mr. FROST. I say to the gentleman from Vermont [Mr. SANDERS] that he is entitled to his opinion, to his view. The committee did try to structure a fair rule that would enjoin the major issues that were before the Congress. The gentleman obviously feels strongly about this matter.

Mr. SANDERS. I surely do.

Mr. FROST. I assume the gentleman will then vote against the bill on final passage.

Mr. SANDERS. I surely will.

Mr. Speaker, two issues: No. 1, the payback must be pay-as-you-go so that we do not stretch it out over 30 years and add tens of billions of dollars in interest payments.

No. 2, the wealthiest people of this country must finally start to pay their fair share of taxes, not the working people, to bail out the commercial banks.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the very distinguished and thoughtful gentleman from New York [Mr. LENT], a member of the Committee on Energy and Commerce.

Mr. LENT. Mr. Speaker, I rise in opposition to this rule and strongly oppose it, because our request to have an amendment on the important issue of failed or failing banks made in order as submitted to title I was denied by the Rules Committee. The amendment which was filed with the Rules Committee last Friday by the gentleman from Massachusetts [Mr. FRANK] and the gentleman from New Jersey [Mr. RINALDO], the gentleman from Ohio [Mr. WYLIE], the gentleman from Georgia [Mr. BARNARD] and myself amended a certain provision of the Federal Deposit Insurance Act. The amendment provides that a financial services holding company could acquire a failed or failing bank only with the prior approval of the Federal Reserve Board and subject to a determination by the FDIC that that acquisition satisfies the FDIC obligation to an institution's insured depositors at the least possible cost to the Deposit Insurance Fund. So these matters are properly addressed in title I.

What the Rules Committee did, apparently, was to reassign this amendment to title IV, which deals with a completely different statute, so we are not now dealing with a law concerning diversified holding companies which was taken out by the Energy and Commerce Committee. Those provisions were completely removed from title IV.

The amendment deals with the obligations and authority of the FDIC under a completely different statute.

I think the rule confuses the issues most unnecessarily. It is a difficult bill to understand to begin with, but it is really muddled up as a result of the way the rule is drawn.

So Mr. Speaker, I urge my colleagues to vote against the rule.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I thank the gentleman very much for yielding me this time.

Mr. Speaker, I rise in support of the rule, with the intention at this point of dispelling some of the mistaken notions which have already been put out here on the floor this morning and which I expect will be heard on a continuous basis in the course of the day.

This whole question of whether or not Commerce should be merged with Banking is one that has basically been accepted in terms of a separation created for the history of our country.

□ 1120

In fact, if you look across the globe, there is no country in the world which even remotely approximates what is being proposed by the administration in terms of taking down this distinction between allowing, for example, an IBM to purchase Citicorp, to have the built-in conflicts of interest, to have the potential for self-dealing, to have real questions raised with regard to credit allocation which would be so difficult to monitor out in the real world marketplace.

Now, these are not issues, however, that have escaped the attention and the analysis of some of the most distinguished people in our country.

Let me begin by giving you some of their comments. Let us begin with Chairman Paul Volcker, chairman of the Fed, for many years, one of the most distinguished Americans. Here is what he has to say on that subject:

> Where the line should continue to be drawn is between banking and commerce. Fuzzy as that distinction may be at the margin, the overriding public policy interest remains strong.

Let us talk about Gerald Corrigan, president of the Federal Reserve Bank of New York. Here is what he has to say on the issue:

> The potential benefits strike me as remote at best and illusory at worst.

Charles Bowsher, head of the GAO:

> I think you're setting yourself up for mega-bailouts down the road.

If you allow for the destruction of this commerce/banking separation.

Remember this is on the heels of an already $200 billion bailout of the S&L's, heading toward three-quarters of a trillion before the end of this decade.

Let me go on. Henry Kaufman, one of the most distinguished economic observers in our country. Here is what he has to say:

> Merging banking and commerce ultimately puts in jeopardy the fundamental economic democracy of this country and undermines the crucial need for independent deposit institutions exercising objective credit judgments.

Let me move on to the former Council of Economic Advisers chief, Herbert Stein, Richard Nixon's top economic adviser. Let me tell you what he has to say about the subject.

> There is little reason to think that non-financial businesses will be more willing to put capital in banks than the ordinary investor would, unless the non-financial business sees an opportunity to gain from the connection something other than the return on equity. This opportunity is likely to mean some form of self-dealing that is illegitimate.

And finally, just to go to the other side of the aisle, Ralph Nader agreeing with Paul Volcker, agreeing with Herb Stein:

> Letting commercial firms buy banks creates an irresistible temptation for conflicts of interest and self-dealing.

Mr. Speaker, this is an historic issue. The gentleman from California points out that for 297 years this Anglo-Saxon tradition has been accepted inside of our country, and I would hope that we could, in fact, resist this temptation to not help banks grow their way out of trouble but, in fact, grow their way into trouble by associating with corporations in this country who do not have the expertise to be able to manage the banks any better than the bankers themselves have done over the last decade.

Mr. DREIER of California. Mr. Speaker, let me yield myself such time as I may consume in order to simply respond to my friend from Massachusetts by saying it is apparent that Herb Stein, Ralph Nader, Gerald Corrigan, Paul Volcker and Henry Kaufman all had the opportunity to vote on this, but tragically the members of the Committee on Energy and Commerce and the members of the Committee on Banking, Finance and Urban Affairs did not have that opportunity.

Mr. BARNARD. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. I yield to the gentleman from Georgia.

Mr. BARNARD. I thank the gentleman for yielding.

Mr. Speaker, I simply would like to say that those who rely upon Paul Volcker, Gerald Corrigan and Herb Stein as far as this issue is concerned, do they disagree with what they have done on their provisions in the bank holding company bill to permit bank holding companies to get investment powers? All of them have been very supportive. Therefore, it came out of the Federal Reserve that bank holding companies could underwrite various things.

Now, all of a sudden, I say to the gentleman from Massachusetts [Mr. MARKEY] those are the things which the Committee on Energy and Commerce have stricken from the bill. If you put so much reliance in the veracity and the support of Paul Volcker, you have ignored Paul Volcker and Gerald Corrigan in permitting bank holding companies to get into allied fields.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. BEREUTER], the ranking member of the Subcommittee on Policy Research and Insurance.

Mr. BEREUTER. Mr. Speaker, while I oppose the rule, I would begin by expressing my most sincere appreciation for making in order the Vento-Bereuter interstate branching opt-out amendment which now has broad, bipartisan support. However, during Rules Committee consideration of H.R. 6, this Member also filed an important, badly needed amendment to amend the Federal Deposit Insurance Act to clarify the liability of depository institutions and other lenders, as well as the liability of the FDIC and RTC, to pay for costs associated with hazardous waste cleanup.

The amendment was a more limited version of H.R. 1450, a measure introduced by the gentleman from New York, Mr. JOHN LAFALCE, and which as of today, has an incredible 268 cosponsors.

This Member was disappointed to learn that despite the overwhelming support in this body for clarifying the liability of affected parties, such as lenders, under Superfund and other environmental cleanup statutes, the Rules Committee elected not to make the amendment in order for consideration during the debate on H.R. 6.

For the last two Congresses, lender liability has been covered extensively in numerous hearings held by the Small Business, Energy and Commerce and Banking Committees. Action is long overdue and H.R. 6 would have been one appropriate place to at least partially address the issue.

Today, this Member would like to urge the relevant committees of jurisdiction to act soon to clarify the liability for cleanup under the Superfund law.

In 1980, as Congress debated Superfund legislation, it determined generally that owners and operators of property should be liable for a release or threatened release of hazardous materials in the environment where a response action was necessary. As in the case of lenders, Congress further determined that parties who held indicia of ownership should not be liable if that indicia was primarily related to protecting a security interest. In other words, if you have a relationship to a piece of property not in order to own or operate it, but primarily to use it as collateral for another obligation, then no liability should be attached.

However, conflicting court opinions have substantially clouded the issue—and made lenders wary of extending credit to individuals and businesses.

Many of us have received letters from constituents stating that it has been the very threat of potential liability for cleanup costs that has forced lenders to stop lending to businesses and farmers.

As a Member representing a rural constituency, I can attest to the problems facing small banks, as well as the farmers and agribusinesses seeking to borrow money. Uncertain of their liability, small banks are now resorting to costly environmental site examinations to protect themselves from liability.

In addition, FDIC has indicated that it is entirely possible that a bank that may have originally held only a 10-percent participation in a syndicated loan would be responsible for 100 percent of the cleanup costs if that bank is the only lender still operating.

It is also disturbing to read Federal Reserve and FDIC surveys showing that some lenders have stopped making loans to certain types of small businesses, such as dry cleaners and gasoline stations, that are often associated with environmental problems. Or that fiduciaries have withdrawn from estates, solely because they may be liable for contaminated property in their holdings—even though they had no specific knowledge of the nature of the property when they assumed the trust.

With the lengthy list of cosponsors of the LaFalce legislation and the great amount of interest in the issue generated in recent committee hearings, it is clear that the issue of lender liability deserves full House consideration.

Mr. Speaker, this Member urges timely action to—once and for all—move legislation to resolve the question of liability. Instead of fostering a climate in which lenders are willing partners in overall efforts to clean up the environment by loaning necessary funds, the uncertainty of lender liability is denying the financial resources to those businesses that need them most.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MCCANDLESS], another hardworking member of the Committee on Banking, Finance and Urban Affairs, who represents the magnificent desert of California.

Mr. MCCANDLESS. Mr. Speaker, I thank the gentleman for yielding time and for his kind words.

Mr. Speaker, I rise in opposition to the rule.

Mr. Speaker, the patient before us needs major surgery—and all we are doing is applying Band-Aids.

The Treasury Department sent us a comprehensive proposal to reform our financial industry and to enable our banks to compete in the world markets.

The legislation before us is a mere shadow of what was proposed.

Comprehensive regulatory restructuring is out.

The ability of banks to attract desperately needed domestic capital is out.

Major reform of the deposit insurance system is out.

Restructuring of financial services is out.

Allowing banks to diversify their geographic location is greatly watered down.

All that is left are the Band-Aids.

This isn't banking reform—it's a formula for disaster.

Mr. Speaker, the rule should be defeated.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. I thank the gentleman from Texas for yielding to me.

Mr. Speaker, I am going to vote for this rule. It was an extraordinarily difficult job that the Committee on Rules had put upon it. There are no perfect solutions to this sort of thing, but it does seem to me that we have a rule which structures the debate in a way that all the major questions would be posed.

□ 1130

And if they are not answered, it will not be the fault of the Committee on Rules. It will be the fault of a certain tentativeness that still exists in the body.

I wanted to use this opportunity, Mr. Speaker, because there is a limited amount of debate time under the rule to address some of the general issues that are here. I have to say that I find myself on a different side from some of the people with whom I am usually on line here, and I have to confess, Mr. Speaker, that, while I think my attendance record has been a pretty good one, I think I was absent the day we decided that being a good liberal meant protecting the securities industry against the competition because I think that is part of what we are talking about here. I have generally sided with, and will continue to side with, the view that consumers are entitled to protections against various forms of commercial practice.

Mr. Speaker, I have an amendment myself today that I think is fairly widely supported that would create an affordable housing program under the FDIC. I would be working hard for the amendment of the gentleman from Massachusetts [Mr. KENNEDY], my colleague, for tougher rules, and, regarding Community Reinvestment Home Mortgage Disclosure Act enforcement, not changing, as I understand it, the substance. I think where we are talking about disclosure, where we are talking about various forms of consumer protection, we should be very tough.

The major questions that come before us though and the various disputes about title 4 are on the question of consumer versus industry. No one is proposing, to my knowledge, allowing anybody to do something that somebody cannot already do. No one is talking about letting the banks do something that is not already being done.

So, what we have here I think is somewhat misperceived by some of my friends as a difference between the consumers somehow and various forms of commercial entities. In fact, what we have got, as I see, is a horizontal fight. We have got the banks, the insurance companies, the securities industries, all of which would like not to have much competition from the other, or many of which would. And the attitude, I must say, of the securities industry here reminds me, if I may quote a former Senator who was chairman of the Commerce Committee, and I am sure that I may, former Senator Maguson, who said, after being chairman of the Commerce Committee, he thought all any business in America wanted from Government was a reasonable advantage over the competition.

I think it is important that we protect the consumer, but I do not understand why it is liberal doctrine to protect Ma and Pa Salomon, or Merrill Lynch, or the securities industries. I think competition is a useful thing. Some of us do feel that other entities than banks should be able to get into the banking business. That is why I support the failed bank amendment and that banks can usefully get into some other business.

But the point we ought to make clear is this: No one is talking about relaxing any of the rules under which any of those activities take place. In fact, this legislation would, and I think in a relatively uncontroversial way, and certainly the broad consensus, tighten the rules. I want there to be tightened rules on the way various of these businesses are conducted, but once we have tightened the rules, and put in the regulatory upgrades and the consumer safeguards, I do not understand why it became good liberal doctrine that entities A, B, and C should be allowed to do this, but not X, Y, and Z.

Mr. Speaker, it seems to me all we have got is an anticompetitive situation. The securities industry was very eager to be protected against competition. I understand that it is a natural human reaction. Even incumbents sometimes feel that way. But it does not seem to me that it rises to the level of principle that has been put forward here.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New Jersey [Mr. RINALDO] who is going to be offering one of the most important amendments in this bill.

Mr. RINALDO. Mr. Speaker, there are a number of reasons why this rule should not be adopted. The key one, however, is the forced shifting of my amendment to allow commercial firms to purchase failed and failing banks from title I to title IV.

H.R. 6, as passed by the Banking Committee, created a diversified holding company structure that would have allowed commercial firms to buy banks. That provision was included in title IV.

The Rules Committee has made the Dingell-Gonzalez substitute, which was never considered by either committee, the base text for today's debate. Their title IV has no mention of the diversified holding company and does not allow any commercial firm to buy a bank.

My amendment is an effort to save taxpayers money. It was drafted to amend title I. It mentioned the least cost resolution provision of the Federal Deposit Insurance Act to allow commercial firms to buy a failed or failing bank only if the FDIC ruled that it was the least costly way to deal with a specific failed or failing bank.

There is no reason to link my efforts to save taxpayers dollars to the section dealing with bank powers. My amendment does not grant any bank any new powers.

It is designed to reduce the cost of dealing with the 200 plus failed banks that the FDIC will have to resolve each year for the next few years. Placing it in title IV is unnecessary and unfair.

I urge the defeat of this rule.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2½ minutes to the gentleman from Texas [Mr. DE LA GARZA], the chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Speaker, H.R. 6 was sequentially referred to the Committee on Agriculture for consideration of matters within our jurisdiction under rule X. As far as it is relevant to this bill, the committee's jurisdiction is over extensions of agricultural credit; rural economic development; and agriculture generally.

Mr. Speaker, it became clear very early that this bill, as reported by the Banking Committee, held ominous consequences for rural America. We recognize that the Banking Committee has the greatest expertise over the general aspects of banking policy. But the House has specifically and deliberately charged the Committee on Agriculture with jurisdiction over agricultural credit and over rural development—and we take our responsibility seriously.

Mr. Speaker, many of my colleagues will oppose H.R. 6 on its merits because they believe that it is not good bank regulatory policy. In the Committee on Agriculture, we recognized and documented the great concerns that many experts on rural development had regarding the failure of the bill to reflect the interrelationship between banking policy and the particular needs and structure of the rural economy.

Mr. Speaker, I have the greatest respect for the members of the Committee on Rules and for its chairman and I am grateful for the fact that they acted to help resolve some of the technical concerns in the Banking Committee's bill that were in our jurisdiction.

I will oppose the bill H.R. 6 for many reasons, but also because two amendments adopted by the Committee on Agriculture intended to mitigate what we believe are glaring problems with the bill were not made in order.

Mr. Speaker, I am saddened that the Rules Committee—in recommending this rule—has completely ignored the expertise of the Committee on Agriculture in the area of rural economic development. One amendment in particular represents a modest step to ensure that the new powers granted by the bill to allow big banks to open interstate branches don't suck capital out of rural economies. The Agriculture Committee's amendment modifies regulatory review of interstate branch provisions of the Banking Committee's bill to require that regulators scrutinize the community lending activities of an interstate branch upon a finding that local deposits are not being loaned locally.

The other amendment of the Committee on Agriculture not made in order relates to the clarification of passthrough of deposit insurance for funds of futures market customers. Mr. Speaker, our committee has jurisdiction over the regulation of futures markets and adopted our amendment out of concern that the Banking Committee's provisions could have unintended consequences on futures markets. Yet the Rules Committee has prevented the House from even clarifying this matter.

Mr. Speaker, I am very concerned that the Rules Committee has not even allowed the House the opportunity to consider our modest amendments. Something is wrong here. The banking bill is obviously being considered in some kind of vacuum and the concerns, interests, and needs for rural America are specifically being laid aside.

Mr. DREIER of California. Mr. Speaker, I would like to associate myself with the remarks of the distinguished gentleman from Texas [Mr. DE LA GARZA], the chairman of the Committee on Agriculture.

Mr. Speaker, I yield 2 minutes to the gentleman from Tucson, AZ, Mr. KOLBE.

Mr. KOLBE. Mr. Speaker, I rise today to oppose the rule and speak out against title IV as it has been made in order by the Rules Committee.

Out-of-date laws designed to protect banks from competition have become barriers—barriers that impede banks from adapting to changed market conditions and providing consumers with the products and services they need.

These barriers have hampered our ability to compete in global markets and have unleveled the playing field for providers of financial services. Clearly there is reason to overhaul an outdated system, thus the reason for my support of H.R. 6, as reported by the House Banking Committee.

My support for H.R. 6, as reported by the House Banking Committee, stems from concerns that the so-called Dingell-Gonzalez compromise would inflict anticompetitive and punitive restrictions on banks that would eventually trick the taxpayer into paying for future bank bailouts by exacerbating the credit crunch and the recession. Let me explain.

In most industries, companies diversify to avoid having the inevitable cyclical downturns in a single market sector destroy the profitability of an entire corporation. Banking, however, is a regulated industry in which banks must get permission from their regulator before embarking on a new enterprise. Current law does not allow banks to engage in any business activities that are not reasonably related to banking, and as such they are trapped in an industry which is contracting in size.

Yet, competitors of banks—financial services industries, securities firms, mutual funds, insurance companies—all operate without similar restrictions against diversification. They have adapted to the changing economic environment more rapidly and, in many cases, more successfully.

Under current law, companies like Sears, JCPenny, Montgomery Ward, American Express, and many others already own FDIC insured banks. Fortune 500 companies hold $719 billion in capital that could be used to shore up our banking system. If strong firewalls, reporting requirements, and capital standards are all in place—as I believe H.R. 6, as reported by the Banking Committee provides—then banks should be allowed to diversify and expand into related businesses just as nonfinancial holding companies should be allowed to acquire banks. Citicorp, the United States' largest bank should not have to turn to a Saudi Prince in order to raise new capital.

For me one of the strongest incentives for supporting this provision from the Banking Committee is the hope that corporate America will see the opportunity to acquire troubled banks, cheaply, reorganize and recapitalize them, and bring new and better management techniques to the banks to make them profitable.

Existing restrictions on interstate banking and branching should also be lifted. H.R. 6, as reported out by the Banking Committee, eliminates these restrictions. Under current law, a California bank may open a branch in Birmingham, England, but not in Birmingham, AL. These restrictions just don't cut it in the 1990's. Interstate branching increases geographic diversity and reduces vulnerability to regional economic downturns.

Arizona is a good example of this; had we not had interstate banking, many of our banks would have failed in the recent near collapse of real estate values.

The objective of interstate banking and branching is to increase competitiveness and choice. Consumers benefit from greater access to banking services and a broader range of products. And greater profits and increased capital improve the safety and soundness of our banks.

If title IV remains in H.R. 6, Congress will have done little to promote fair competition, strengthen the banking system, encourage new entrants into the financial services market, or develop the level playing field so often touted on both sides of the issue.

□ 1140

Mr. FROST. Mr. Speaker, we have very little time left, and for purposes of debate only, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, I rarely oppose rules. I certainly oppose this one.

Later this evening American children all over our country are going to go trick or treating, but we are not waiting for nightfall to start the trick or treating right here in Congress. We are going to give a great treat to our friends in the insurance industry. We are saying to them, we are going to protect you from competition, and here is how we are going to do it. We are going to continue to allow State-chartered insurance companies that own banks to market those banking products to their insurance policyholders all over the world. However, if you happen to be a State-chartered bank that owns an insurance company and want to market your insurance products to your banking customers across America, we are going to greatly curtail that activity to the extent that we can.

Well, that may be a treat for the insurance companies. It is not a treat for consumers. The trick, I say to my friends, is on consumers.

I oppose this rule. Later today I will join the gentleman from Georgia [Mr. BARNARD], the gentleman from Nebraska [Mr. HOAGLAND], and others in offering an amendment to strike title IV. I wish we did not have to do that, but we need to do it.

The principal reason why banks are failing today, Mr. Speaker, is because much of their traditional business has been siphoned off by other offerers of financial services. They tell us:

Don't get your car loans now from a bank. Get them from Chrysler, Ford, or GMC Financial. Don't get your home loans from banks, get them from Sears. Don't get your multipurpose credit cards from banks, get them from Prudential, AT&T, USAA, or somebody else. If you need a business loan, go and see your underwriter, but don't see a bank.

How we can say that this legislation in some way is going to revive the banking industry blows my mind.

Here we are with an industry that is failing, that is in trouble, and we are going to load them down. We are going to load them down with additional regulation and supervision, some of it needed, while we further restrict the ability of banks to compete fairly with the insurance industry and with the securities industry. If this makes sense, I will eat the rest of this microphone.

Mr. Speaker, we should defeat this rule. If we do not defeat the rule, by any standard we must strike title IV.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. BAKER].

Mr. BAKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, this rule is not really hard to understand. It is just hard to believe.

We are in the middle of a banking crisis like we have never seen in this country before, and what does the Congress suggest with the adoption of this rule? Certainly we all believe tough, strong, careful, fair-minded regulation is important. But what do bankers tell us? There is duplication of regulation, there are unnecessary audits, and it costs money. It costs taxpayers money.

What do we do with this proposed plan? We add regulators; we add regulation. Certainly everyone has a different opinion about bank powers. Should they do things tomorrow that they cannot do today? Should they take on new risks? That is certainly a reasonable area for debate.

But under the current plan as proposed, banks will not be able to do tomorrow what they can do today. We are taking away their areas of economic activity. All of us agree that money is the problem. Everybody needs money. I need money, banks need money. The question is, where do we get the money? Do we allow banks to make a profit? Not if we limit their area of economic activity.

What will we do if banks continue to fail? Under this plan we come back to the taxpayers and say, "Give us more money." Taxpayers are going to love this.

Let me say that the gentleman from California who spoke so eloquently earlier was absolutely right. This legislation takes the bank law of England from 1694 and makes it the Bank of America's law for 1992, except that it strikes the progressive provisions.

I think that if we adopt the plan that has been proposed by the Rules Committee without consideration of the hard work of the Committee on Banking, Finance and Urban Affairs of this House and proceed to exclude carefully the well-thought-out amendments offered by Members on this House floor, we are not simply doing ourselves a disservice, we are not simply doing the banks of this country a disservice, we are going to be robbing the taxpayers of this country without any justification.

Mr. Speaker, it is senseless, it is useless, and I hope that the Members will join together and vote against this rule. Let us come back next week. Let us try to do something that is not only reasonable but that is right.

Mr. FROST. Mr. Speaker, I would inquire as to the amount of time remaining on each side.

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from California [Mr. DREIER] has 8½ minutes remaining, and the gentleman from Texas [Mr. FROST] has 3½ minutes remaining.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Dodge City, KS, Mr. ROBERTS, who tried diligently to get one of the most important CRA amendments incorporated.

Mr. ROBERTS. Mr. Speaker, how appropriate it is that on Halloween, the day when things that go bump in the night prowl the earth, the House Rules Committee has now reported this rule on H.R. 6. I have respect for the gentleman from Texas [Mr. FROST] and the chairman of the committee, the gentleman from Massachusetts [Mr. MOAKLEY], but with this rule the committee has proven they are not playing fair; they are in fact playing politics.

I offered an amendment to H.R. 6 to exempt the small community banks from reporting the requirements of the Community Reinvestment Act. The purpose of my amendment was simple. It was to reduce the everexpanding regulatory and paperwork burden that is strangling our small banks.

What kind of a report are we talking about? This is just an example. This is only 2 inches thick. Most of them are 5 or 10 inches thick. This is not a form, it is a book report that should not be required of our small community banks.

My attempt was not outside the committee. Mr. KANJORSKI had offered a similar amendment in the Financial Institutions Subcommittee and it passed. We finally have a chance to reduce rather than add to the unnecessary Government red tape. But, the rules committee won't even let it come to a vote.

Now, my attempt was not made outside the committee. The gentleman from Pennsylvania [Mr. KANJORSKI] had offered a similar amendment that the Financial Institutions Subcommittee had passed with no opposition. We finally have a chance to reduce rather than add to the unnecessary Government red tape, but the Rules Committee will not even let it come to a vote.

Mr. Speaker, I realize the need for antidiscrimination protection in our banking law. I am not asking that we protect any institution engaging in these practices. All banks regardless of size are required to comply with the Equal Credit Opportunity Act which prohibits that kind of discrimination on the basis of race, color, sex, age, religion, marital status, or national origin. If discrimination is the problem let's strengthen enforcement of the Equal Credit Opportunity Act and focus our efforts and scarce Federal resources where the incidence of discrimination is the highest. I submit that this is not on Main Street America in the community banks of this country. But we are pointing the gun at our large money-center banks, the BCCI scandal, and S&L crooks, and we are shooting small banks in the process.

My amendment is less controversial than the one offered by the gentleman from Pennsylvania [Mr. KANJORSKI]. His amendment, however, was dropped. It was dropped in full committee in exchange for dropping an amendment offered by the gentleman from Massachusetts [Mr. KENNEDY] to broaden CRA authority and requirements.

Ms. OAKAR. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. The time of the gentleman from Kansas [Mr. ROBERTS] has expired.

Mr. DREIER of California. Mr. Speaker, I yield 1 additional minute to my friend, the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Speaker, I thank the gentleman for the time. I will try to yield to my friend and to the gentlewoman from Ohio [Ms. OAKAR] as soon as I finish my statement.

Months later we finally get this to the floor, and Halloween is here. It is Halloween, and the Democrat treat is that the Kennedy amendment expanding this authority is back and made in order. The trick, the razor blade in the apple for the small community banks, is that that relief for small banks has disappeared.

Let me repeat again that this is not a report for a bank that is discriminating. This is a report only if you expand the bank and you are going to buy another one. I have over 200 banks in my district.

Mr. KENNEDY. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I will yield just as soon as I finish my statement. I had a conversation with the gentleman earlier.

Mr. Speaker, the gentleman's amendment was made in order; my amendment was not. The difference is that probably my amendment would have passed and his amendment will not have passed. This is unnecessary paperwork. It was a reasonable step forward.

Mr. Speaker, the only reason it was denied again was on a partisan vote in the Rules Committee, and I do not think that is fair.

Mr. KENNEDY. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. The time of the gentleman from Kansas [Mr. ROBERTS] has expired.

☐ 1150

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, as we proceed in this debate today, I hope that Members will listen to the advice and the comments of one of the most efficient and best bank managers in America. His name is Crosby Kemper. Mr. Kemper runs one of the five banks in the country today that has been given a grade of A by Bank Watch, which is a very reputable banking service that looks at banks all over this country. Let me just share with you what Mr. Kemper says about the issues before us.

He was asked in an article which appeared in the Bankers Magazine, the September-October edition of this year, what do you think is the real problem? Let me share with you what he said.

Mr. Kemper said:

> I think the issue is credit. But the tragedy is that the CEO's, especially those running our major banks, know nothing about it.

He went on to say that they broke all the rules that a trained banker should have adhered to.

Then Mr. Kemper was asked what sort of approach would you advise bankers to take? This is a conservative Republican banker that runs a $4 billion institution in the Midwest, one of the five best banks in the country today.

Do you know what he said? He said:

> Every banker should know how to lend money properly. The problem is that not many bankers know how.

Then Mr. Kemper was asked what do you think the need for restructuring the banking industry is, and specifically the Bush reform plan?

This is what he had to say. He said:

> It is hard to imagine the bank managers of some of these money center banks having the ability to underwrite stocks. They have shown no real judgment so far. For these banks to have expanded powers is outlandish. Such a move would make the junk bond problem look like tiddly-winks.

Now, this is not some liberal Democrat social observer. This is a conservative Republican banker in the Midwest who runs a $4 billion institution, saying that if we pass this legislation, we make a terrible mistake for the taxpayers of this country, for the consumers, and indeed for the banking industry.

Mr. Speaker, I hope we listen today.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am always saddened to have to disagree with my friend from Kansas City, Mr. Kemper, but I believe he is clearly very wrong on this issue.

Mr. Speaker, I yield 2 minutes to my friend, the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, I rise in opposition to the rule. I am a member of one of the committees that has partial jurisdiction over this legislation, the Committee on Energy and Commerce. I am also a member of the subcommittees that have jurisdiction, the Subcommittee on Telecommunications and Finance, and the Subcommittee on Commerce, Consumer Protection, and Competitiveness. I have attended numerous subcommittee hearings and markups as well as full committee hearings and markups on this issue. I have had dozens of meetings in my congressional district with small, medium sized, and large bankers. I have had several full-blown advisory meetings on this legislation.

As a consequence of those meetings and all that study and work, I have developed three amendments, grassroots amendments, commonsense amendments, amendments that would have passed by voice vote and probably unanimous consent had I been allowed to offer them.

I took them to the Committee on Rules to have them made in order for the simple reason that they were not within jurisdiction of the Committee on Energy and Commerce. Not one of those amendments was made in order.

One of those amendments would have allowed a study to coordinate the audit activities of the various regulatory bodies over our banks. Some of my small banks in Texas have been audited six times in the last year. That is six times in 1 year, not one time in 6 years. We ought to be able to bring some coordination to that.

Another amendment would have allowed the local tax appraisal on a property to be used for a 2-year period in order to move the property off the RTC rolls and back into the private sector. At the end of that 2-year period, we would determine whether to allow that procedure to continue in effect for more time.

That one amendment would have probably resulted in somewhere between $80 million and $100 million worth of property being transferred back in private hands in Texas this year alone. It was not made in order.

Finally, I had an amendment that would have required a study to use private market-based insurance for our deposits above $100,000. As we all know, the FDIC guarantees up to $100,000, but above that, there is no guarantee. However, because of the too big to fail process, the taxpayer has in fact guaranteed all deposits, whether they are $100,000 or more.

This amendment would have allowed the small banks to retain some of the funds that were going to the large banks because they would have all been playing on a level playing field.

Mr. Speaker, not one of those amendments was made in order. For that reason, I would hope that we would defeat this rule, go back to the Committee on Rules, and get a rule that allows a lot of amendments.

This is the most extensive change in banking laws since the Great Depression. We do not need to pass it through the House in 1 day.

The SPEAKER pro tempore (Mr. McNULTY). The gentleman from California [Mr. DREIER] has 3½ minutes remaining, and the gentleman from Texas [Mr. FROST] has 1½ minutes remaining.

Mr. FROST. Mr. Speaker, I yield 30 seconds to the gentlewoman from Ohio [Ms. OAKAR] for purposes of debate only.

Ms. OAKAR. Mr. Speaker, I wanted to clarify what I thought was a misrepresentation about community reinvestment in the Kanjorski amendment. The Kanjorski amendment was not dropped, it was soundly defeated by the full Committee on Banking, Finance and Urban Affairs.

In terms of community reinvestment, I think we ought to note what it is. Community reinvestment simply says that where banks are located, where they make all their money, they have an obligation in part to lend to people who live in that community. If banks were more conscious of where they came from, we would not have the crisis that we have today in America.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio [Ms. KAPTUR], a former member of the Committee on Banking, Finance and Urban Affairs.

Ms. KAPTUR. Mr. Speaker, I thank the gentleman from California for yielding.

Mr. Speaker, I rise in strong opposition to this rule. I believe this rule gives the big banks of this country the right to put both their hands into the taxpayers' pockets of our country. The savings and loans already have one hand in the other pocket, and now it will be two.

How does it do that? By giving the FDIC new authority for a line of credit to the U.S. Treasury for the commercial banks.

What is a line of credit? It is a blank check. I am truly dismayed that this bill, or any bill that has come through the Committee on Banking, Finance and Urban Affairs in the past 9 years, has never come up with a different solution to finance this problem other than going back to the taxpayers of the United States. It is wrong.

Mr. Speaker, if you are for the American people, who did not cause this problem in the first place, you will vote against the rule and for a pay-as-you-go provision in this bill that is fair to the taxpayers of our country.

Mr. Speaker, I include the following article from last Sunday's Washington Post for the RECORD.

BUTTRESSING THE BIG BANKS—EXPERTS SAY TAB COULD HIT $200 BILLION, AND TAXPAYERS MAY HAVE TO HELP

(By Jerry Knight)

America's largest banks are in bigger trouble than government officials and the banks themselves have publicly admitted, and many congressional and private banking experts question whether the industry will be able to solve its problems without direct help from taxpayers.

Congress this week will vote on the Bush administration's request to arrange a huge loan to the Federal Deposit Insurance Corp. to pay for bank failures.

The banking industry is supposed to pay back the money—with interest—so that ordinary taxpayers never feel the bite. But congressional Democrats and many banking economists fear that U.S. banking is simply too weak to repay the money.

The unprecedented loan from the U.S. Treasury is only one part of what Cleveland State University economist Edwin Hill believes will be a $200 billion investment needed to restore the health of the banking industry.

The banking industry's trouble is concentrated in 158 large banks, each with assets of more than $1 billion, according to Hill and economist Roger Vaughan, who are researching the industry for a book on the future of American finance to be published by The Washington Post. "We're dealing with a group of crippled giants," said Hill. Those big banks alone will need to raise at least $64 billion in new capital to operate safely, Hill and Vaughan calculate. The rest of the country's banks will need another $56 billion, the economists concluded after a massive computer analysis of the balance sheets for every one of the country's more than 12,000 banks.

In addition, they say, the banks will also be called on to put up more than $50 billion to repay depositors in failed banks, and an additional $30 billion to rebuild the federal government's bank insurance fund. The economists estimates exceed the FDIC projection that bank failures will cost at least $30 billion and as much as $44 billion. The FDIC is seeking congressional authority to borrow as much as $70 billion to cover operating expenses.

The banking industry is in trouble because of a series of ill-fated decisions over the last decade to lend money to Third World countries, corporate takeover artists and real estate developers who ended up not being able to repay their loans. Those bad loans have caused nearly 1,000 banks to fail, left hundreds more on the brink of failure and badly eroded the capital reserves of another 2,000 banks.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, I am very much concerned about this legislation. I think the rule should be more adaptive to amendments. The things that concern me are, No. 1, the taxpayers are going to be standing behind the guarantee of entirely too much money in these accounts. We ought to tighten up much more than this legislation allows.

Second, I do not think interstate banking all over the United States is in the public interest, for very good reasons: Because people in a community can tell the bank that it is unwise to do certain sorts of things and they cannot really do that when it is on an interstate basis.

The next thing is bankholding companies and private concerns in banks are mixed up in a situation in this legislation which I think is dangerous to the health of the bank.

Finally, I could add the fact that I think we should have had a better answer to international banking than we do under this rule.

The things I have referred to, the guarantee of the Federal Government out of the little taxpayers of our country for these money lenders seems to me to be a mistake. And interstate banking seems to me to be a mistake, as well as having the bankholding and other companies involved in things that are in a conflict of interest situation.

Mr. DREIER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama [Mr. ERDREICH], the chairman of the Subcommittee on Policy Research and Insurance of the Committee on Banking, Finance and Urban Affairs.

Mr. ERDREICH. Mr. Speaker, in taking up the issue of comprehensive banking reform the House is reviewing the work of many committees. As a member of the Banking Committee I know firsthand that this work has been long and arduous, with each committee addressing its concerns about the system of financial services that will be available to Americans for years to come.

I have participated in this debate, have offered amendments in the Banking Committee markup and have analyzed the results of this process. I would prefer the bill that the Banking Committee has reported to the House. The Banking Committee's version of the bill would provide for a more thorough restructuring of financial services. A restructuring critical to the ability of all our financial institutions—whether they are banks, insurance companies, real estate firms, or securities firms—to meet the needs of all citizens to keep us competitive in a rapidly changing marketplace.

This general debate and the debate that will follow on the amendments to H.R. 6 are important to continuing the process of forging appropriate language to meet the competitive needs, capital needs, and service needs of the country. I am hopeful that this body can agree to meet these needs in a substantive and meaningful way. In my view, this means providing a system whereby all financial service institutions will be equal, without protecting one industry at the expense of another.

I intend to support positions that will provide this parity—whether they be equal capital provisions or provisions providing for equal consumer provisions to all financial service organizations. Appropriate, effective safeguards protecting unwary consumers from financial fraud must be a part of this process, but firewalls that are unrealistic or unworkable should not be imposed.

Finally, Mr. Speaker, I urge all my colleagues to consider the full impact of the amendments that this body will adopt, and, before either voting for or against this bill, consider whether or not there has been true reform of financial services or the dismantling of one industry at the gain of others.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have been asked to close this debate. I will do so by simply saying that we really have a couple of choices here. Are we going to shift back to the banking law as the Bank of England established it in 1694, or are we going to do nothing? The committees with jurisdiction over this, the Committee on Banking, Finance and Urban Affairs, and the Committee on Energy and Commerce, have never had a chance to consider this bill. This rule is clearly unfair, not only to Members on this side, but to Members on the other side of the aisle as well.

Mr. Speaker, I urge a no vote on this rule.

Mr. Speaker, I yield back the balance of my time.

□ 1200

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

This piece of legislation is truly one of the most complicated, controversial pieces of legislation this Congress has had to deal with in years. The Committee on Rules had devoted a great deal of time and energy in trying to structure a fair rule, one that permits the major issues to be joined on their merits.

I urge adoption of this rule.

Mr. DELAY. Mr. Speaker, I rise in opposition to this rule.

The reason we are here today is because Congress voted, more than 40 years ago, to guarantee deposits of up to $2,500 of small savers in banks and thrifts to prevent runs on the financial institutions. There was merit in the policy to insure the savings of depositors.

Most depositors kept only small amounts of money in the bank to handle regular transactions. Further, technology severely limited their choice of banks to a small geographic area. Because the accounts were so small they had little incentive to monitor the state of the financial industry and compare their bank's relative status and health. These depositors would only react if they heard rumors that the bank was in trouble, which would lead to a run on the bank.

However, over time, subsequent legislation drastically expanded that coverage. Current deposit insurance coverage of $100,000 per account is more than four times higher than the initial level, and that's after adjusting for inflation.

Additionally, improvements in transportation and telecommunications technology have increased consumers' banking options by orders of magnitude. Many investors now move their capital nationwide and even globally.

Federally guaranteed deposit insurance has evolved from a policy of insuring the savings of depositors to guaranteeing the capital of rate-sensitive investors.

Banks, and other financial institutions, have been in serious trouble in recent years. The Congress is now being asked to make good on its promise to guarantee deposits. As we know, for the Congress to meet its obligation, we must reach deep into the pockets of taxpayers or, to be more precise, future taxpayers.

The bill before us today does not correct this problem of taxpayer exposure. In fact, this legislation actually expands deposit insurance coverage which will increase future taxpayer exposure.

Currently, a family of four can have federally insured accounts totaling $1,400,000 at each financial institution. This bill allows for pass-through insurance coverage. Thus, each person would be able to receive even more coverage in $100,000 increments.

Thomas Garrott, president of the National Bank of Commerce, has correctly identified that federally guaranteed deposit insurance destroyed the natural immunities of the free-market system. In the winter 1991 edition of Regulation, he further points out that:

> The causes most often cited [for the collapse of the S&L industry] are fraud, disintermediation, speculative lending practices, and inept regulatory supervision. In reality, however, these were merely viruses that found a receptive breeding ground in an industry already susceptible to infection as a result of unrestrained deposit insurance abuse.

I oppose this rule on H.R. 6 because it does not allow for amendments to address this serious problem. At the very least, this Congress should be allowed to have a clear vote on the issue of deposit insurance so that the American people will know which Members want to increase taxpayer exposure to future liabilities.

I offered two amendments on deposit insurance which the Rules Committee did not make in order under this rule.

Under my first amendment, deposit insurance coverage would be restricted to $100,000 per individual in aggregate on a nationwide basis. Each person would be able to determine which accounts they want insured up to a limit of $100,000 total. More than 94 percent of all depositors would not be affected by my amendment because they have total deposits of less than $100,000.

The second amendment I offered would have lowered the limit to $40,000 in aggregate. More than 80 percent of current depositors have less than $40,000 in total deposits and thus would not be affected.

Taxpayer guaranteed deposit insurance removes the natural market incentives for banks to make careful decisions. Rate-sensitive investors move their capital through brokers to financial institutions offering the highest rates. The safety and soundness of the institution are not part of the consideration. These investors seek a return on their investments equivalent to the returns achieved in the stock markets without any of the associated risk.

I firmly believe that if individuals want to invest their capital risk-free, they can purchase Government securities. However, if they seek a higher return on their investment, they must accept the risk. Interest rates are a normal function of risk in a market economy.

Mr. Speaker, I ask my colleagues to oppose this rule on H.R. 6 so that the House may have the opportunity to vote on serious reform to deposit insurance.

Mr. FROST. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

Pending that, Mr. Speaker, I ask unanimous consent that the vote by the yeas and nays on the motion to suspend the rules and pass the bill, H.R. 2454, be reduced to 5 minutes to follow this vote.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 210, nays 208, not voting 15, as follows:

[Roll No. 358]

YEAS—210

Abercrombie	Downey	Kopetski
Ackerman	Durbin	Kostmayer
Anderson	Dwyer	LaFalce
Andrews (ME)	Dymally	Lantos
Andrews (NJ)	Early	LaRocco
Andrews (TX)	Edwards (CA)	Laughlin
Annunzio	Edwards (TX)	Leach
Aspin	Engel	Lehman (FL)
Atkins	Espy	Levin (MI)
AuCoin	Evans	Levine (CA)
Bacchus	Fascell	Lewis (GA)
Barnard	Fazio	Long
Beilenson	Feighan	Lowey (NY)
Berman	Flake	Luken
Bevill	Foglietta	Manton
Bilbray	Ford (TN)	Markey
Bonior	Frank (MA)	Martinez
Borski	Frost	Matsui
Boucher	Gejdenson	Mavroules
Brewster	Gephardt	Mazzoli
Brooks	Geren	McCloskey
Bruce	Gibbons	McDermott
Bryant	Glickman	McHugh
Bustamante	Gonzalez	McNulty
Byron	Gordon	Meyers
Cardin	Guarini	Mfume
Carr	Hall (OH)	Michel
Chapman	Hamilton	Miller (CA)
Clay	Harris	Mineta
Clement	Hatcher	Mink
Clinger	Hayes (IL)	Moakley
Collins (IL)	Hayes (LA)	Montgomery
Collins (MI)	Hertel	Moran
Conyers	Hoagland	Mrazek
Cooper	Hochbrueckner	Murtha
Cox (IL)	Horn	Nagle
Coyne	Houghton	Natcher
Darden	Hoyer	Neal (MA)
de la Garza	Huckaby	Nowak
DeFazio	Jefferson	Oakar
DeLauro	Johnson (CT)	Oberstar
Dellums	Johnson (SD)	Obey
Derrick	Johnston	Olver
Dicks	Jones (NC)	Ortiz
Dingell	Jontz	Orton
Dixon	Kanjorski	Owens (UT)
Donnelly	Kennedy	Pallone
Dooley	Kennelly	Panetta
Dorgan (ND)	Kildee	Parker

Pastor
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickle
Rangel
Ray
Reed
Richardson
Roe
Roemer
Rostenkowski
Roybal
Russo
Sarpalius
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tauzin
Torres
Torricelli
Towns
Traxler
Unsoeld
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates

NAYS—208

Alexander
Allard
Anthony
Applegate
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bliley
Boehlert
Boehner
Broomfield
Browder
Burton
Callahan
Camp
Campbell (CO)
Carper
Chandler
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Costello
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Eckart
Edwards (OK)
Emerson
English
Erdreich
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gaydos
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Hefner
Henry
Herger
Hobson
Holloway
Horton
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (TX)
Jones (GA)
Kaptur
Kasich
Kleczka
Klug
Kolbe
Kolter
Kyl
Lagomarsino
Lancaster
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Miller (OH)
Miller (WA)
Molinari
Mollohan
Moody
Moorhead
Morella
Morrison
Murphy
Myers
Neal (NC)
Nichols
Nussle
Olin
Owens (NY)
Oxley
Packard
Patterson
Paxon
Payne (VA)
Petri
Pickett
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Sanders
Sangmeister
Santorum
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shuster
Skeen
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stallings
Stearns
Stump
Sundquist
Tallon
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Traficant
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wilson
Wolf
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—15

Bilirakis
Boxer
Brown
Bunning
Campbell (CA)
Ford (MI)
Hopkins
Lloyd
Payne (NJ)
Rose
Rowland
Sabo
Savage
Slaughter (VA)
Tanner

□ 1221

Messrs. JACOBS, HEFNER, and CONDIT changed their vote from "yea" to "nay."

Messrs. LAROCCO, PASTOR, DICKS, VOLKMER, and HOUGHTON changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REINSTATEMENT OF GENERAL DEBATE TIME TO COMMITTEE ON AGRICULTURE ON H.R. 6, FINANCIAL INSTITUTIONS SAFETY AND CONSUMER CHOICE ACT OF 1991

Mr. FROST. Mr. Speaker, I ask unanimous consent that at the conclusion of consideration of amendments to H.R. 6 in the Committee of the Whole today the period of general debate allocated to the Committee on Agriculture by H.R. 264 and not consumed on yesterday be allocated to that committee.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. FROST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks during debate on House Resolution 266, the resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERIC DRUG ENFORCEMENT ACT OF 1991

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill, H.R. 2454, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 2454, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 413, nays 0, not voting 20, as follows:

[Roll No. 359]

YEAS—413

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brooks
Broomfield
Browder
Bruce
Bryant
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Cardin
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Quillen
Rahall

Ramstad	Sharp	Thomas (WY)
Rangel	Shaw	Thornton
Ravenel	Shays	Torres
Ray	Shuster	Torricelli
Reed	Sikorski	Towns
Regula	Sisisky	Traficant
Rhodes	Skaggs	Traxler
Richardson	Skeen	Unsoeld
Ridge	Skelton	Upton
Riggs	Slattery	Valentine
Rinaldo	Slaughter (NY)	Vander Jagt
Ritter	Smith (FL)	Vento
Roberts	Smith (IA)	Visclosky
Roe	Smith (NJ)	Volkmer
Roemer	Smith (OR)	Vucanovich
Rogers	Smith (TX)	Walker
Rohrabacher	Snowe	Walsh
Ros-Lehtinen	Solomon	Washington
Rostenkowski	Spence	Waters
Roth	Spratt	Waxman
Roukema	Staggers	Weber
Roybal	Stallings	Weiss
Russo	Stark	Weldon
Sabo	Stearns	Wheat
Sanders	Stenholm	Williams
Sangmeister	Stokes	Wilson
Santorum	Studds	Wise
Sarpalius	Stump	Wolf
Sawyer	Sundquist	Wolpe
Saxton	Swett	Wyden
Schaefer	Swift	Wylie
Scheuer	Synar	Yates
Schiff	Tallon	Yatron
Schroeder	Tauzin	Young (AK)
Schulze	Taylor (MS)	Young (FL)
Schumer	Taylor (NC)	Zeliff
Sensenbrenner	Thomas (CA)	Zimmer
Serrano	Thomas (GA)	

NAYS—0

NOT VOTING—20

Bilirakis	Ford (MI)	Rowland
Boxer	Gekas	Savage
Brewster	Hopkins	Slaughter (VA)
Brown	Lloyd	Solarz
Bunning	Payne (NJ)	Tanner
Campbell (CA)	Pursell	Whitten
Carper	Rose	

□ 1234

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PRIVILEGES OF THE HOUSE—RETURNING TO THE SENATE S. 320, OMNIBUS EXPORT AMENDMENTS ACT OF 1991

Mr. ROSTENKOWSKI. Mr. Speaker, I rise to a question of the privileges of the House, and I offer a privileged resolution (H. Res. 267) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 267

Resolved, That the bill of the Senate (S. 320) entitled the "Omnibus Export Amendments Act of 1991", in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate with a message communicating this resolution.

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 1 hour.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the resolution now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, House Resolution 267 returns to the Senate the bill, S. 320, because it contravenes the constitutional requirement that revenue measures originate in the House of Representatives.

In addition to reauthorizing the Export Administration Act of 1979, S. 320 contains a number of provisions which impose, or authorize the imposition of, a ban on imports into the United States. Among the provisions containing import sanctions are those relating to certain practices by Iraq, the proliferation and use of chemical and biological weapons, and the transfer of missile technology. These changes in our tariff laws constitute a revenue measure in the constitutional sense, because they would have a direct effect on customs revenues.

While the House, by adopting this resolution, will preserve its prerogative to originate revenue matters, I want to make it clear to all Members that our action does not constitute a rejection of the Senate bill on its merits. The House has passed its own bill, H.R. 3489, reauthorizing the Export Administration Act. In addition, H.R. 1415, a bill containing broad nontrade sanctions authority for the proliferation of chemical and biological weapons was signed into law on October 28. Finally, another bill, H.R. 3409, which does contain import sanctions, is pending before the Committee on Ways and Means. We are awaiting certain assurances from the Senate before taking action on that bill.

Thus, Mr. Speaker, our action today is intended solely to protect the constitutional prerogative of the House. It makes it clear to the Senate that the appropriate procedure for dealing with tariff matters that affect revenues is for the House to act first on a revenue bill and the Senate to add its amendments and seek a conference.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to consider was laid on the table.

FINANCIAL INSTITUTIONS SAFETY AND CONSUMER CHOICE ACT OF 1991

The SPEAKER pro tempore. Pursuant to House Resolution 264 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 6.

□ 1239

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6) to reform the deposit insurance system to enforce the congressionally established limits on the amounts of deposit insurance, and for other purposes, with Mr. CARR in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, October 30, 1991, all time for general debate had expired.

Pursuant to the order of the House of today, general debate designated for the Committee on Agriculture will begin after consideration of any amendments offered today.

Pursuant to House Resolution 266, the gentleman from Michigan [Mr. DINGELL] will be recognized for 30 minutes and the gentleman from New York [Mr. LENT] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I ask unanimous consent that the gentleman from Massachusetts [Mr. MARKEY] may control the time on my behalf.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. The gentleman from Massachusetts [Mr. MARKEY] is recognized for 30 minutes.

□ 1240

Mr. MARKEY. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan [Mr. DINGELL], the chairman of the full Committee on Energy and Commerce.

Mr. DINGELL. Mr. Chairman, we stand here in the House of Representatives in the same place we did in 1982, when the Garn-St Germain bill was before us. The same people downtown who presented us the Garn-St Germain bill have presented us the basic legislation which lies before us.

The House has before it proposals which attack the deficiencies of the bill sent up to us and which attack the visible deficiencies of Garn-St Germain. The same people who were pushing that legislation in the earlier days are pushing similar legislation today. I refer to the big bankers, the big bankers who have so mismanaged their affairs through bad loans and are now in serious difficulty. They seek to use that as the excuse to tell the Congress how it is we should restructure the American banking system.

They seek to use that as the mechanism to justify their restructuring the banking system. I would remind my colleagues about the panic of 1837 and the 1929 crash. In each instance, a massive calamity came about because of abuses similar to ones that the banks would be permitted to perpetrate under the administration's legislation.

There are safeguards in the Gonzalez-Dingell legislation, there are firewalls in that legislation. They are strong, and they will prevent abuses.

We have to do the bank insurance fund refinancing that is necessary, but we also have to see to it that there is no longer the massive exposure that the people downtown, the banking regulators, and the same people who gave us the collapse of the savings and loan system, would perpetrate upon the House and the Nation today.

The gentleman from Texas [Mr. GONZALEZ] and I have arrived at an understanding, settling the disputes between our two committees. That is a part of the basic structure of the legislation. I urge my colleagues to support the bill.

Mr. Chairman, I urge my colleagues to vote against the motion to strike those firewalls, those safeguards, and those protections against abuses by the banks.

The banks, remember, in 1929, brought about the most serious economic collapse in the recent history of the United States. They did it because they abused the banking system and their securities powers.

Mr. Chairman, money can be made in banking. It can be made by following simple, sensible rules of accountability. To evade those rules is to invite disaster.

In New York and elsewhere massive abuses occurred in bad loans to dictators and Third World countries, and in bad loans for mergers and acquisitions, where neither the principal nor the interest could be repaid.

The members of the Committee on Energy and Commerce and the Committee on Banking, Finance and Urban Affairs have worked hard.

The distinguished gentleman from Massachusetts [Mr. MARKEY] and the distinguished gentlewoman from Illinois [Mrs. COLLINS] have performed prodigiously with their subcommittees.

The bank insurance fund is now near zero. Approximately, 1,000 banks failed between 1934 and 1981. But under the kind of deregulation and unsound banking practices which occurred under the previous administration and this one, over 1,000 banks have failed in a period of 10 years. They failed because of the attitudes of the regulators, who have said that, if this legislation does not pass in its present form, they will proceed administratively and in the courts to emancipate the banks to do the same thing that the savings and loans did in the time following enactment of Garn-St Germain.

Mr. Chairman, I urge my colleagues to preserve functional regulation. I urge them to see to it that we have real separation between risky activities and insured deposits.

You know, today is Halloween, "trick or treat." You are going to see a lot of promises of treats; you are going to get a lot of tricks from the bankers.

They, the big banks, want to be emancipated. The small banks have different feelings.

If you want to look after small banks, if you want to look after depositors and taxpayers and investors, vote with us.

Mr. LENT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bill has raised many important questions about the issue of banking and commerce. This debate will continue later today as we move forward with a bipartisan amendment sponsored by the gentleman from Massachusetts [Mr. FRANK] and the gentleman from New Jersey [Mr. RINALDO] to which would permit commercial companies to save the taxpayers money by acquiring failed and failing banks.

I want to use my time today to address this important amendment, which emanated from the minority on the Committee on Energy and Commerce. This is a good amendment, one which my minority colleagues on the Committee on Energy and Commerce feel very deeply about.

Briefly, this amendment would authorize commercial firms to acquire failing banks. Any acquisition under this provision must represent the least costly alternative to the taxpayer as determined by the FDIC. The amendment requires any bank acquired by a commercial firm to be brought up to and maintained at level 1 capital or else be divested by the commercial firm.

I submit to you that to merely recapitalize the bank insurance fund, without exploring additional sources of capital that might prevent future bank failures, is an irresponsible act. We can debate whether the banking system as a whole needs capital, but there can be very little argument that a bank that is failing or has failed needs capital. The question that we need to ask ourselves then, as architects of public policy, is, Where is this money going to come from?

I think the answer is very clear. The money is not going to come from the financial services industry; 200 bank failures a year prove that. Foreign investors have it, but I think turning the American banking system into branches of foreign banks is bad public policy. Failed or failing banks are hardly in a position to raise capital in our stock and bond markets. That leaves just two alternatives: Allowing commercial companies to invest in failing banks, or forcing the American taxpayer to reach deep into his pocket to bail the banks out.

One question which opponents will raise today is: "Why would a commercial company want to acquire a failed or failing bank?"

The commercial firms that may buy banks are firms that have a history of financial services—consumer finance in particular. In this group are:

Sears, for example, which has provided credit to its millions of customers for many years;

Ford Motor Corp., which has a long history of providing auto loans;

American Express, which is primarily known for its credit card; and

Household International, whose household finance has provided credit to consumer since the 1800's.

I could add other firms that own and operate so-called nonbank banks, too—Like J.C. Penny; Aetna Life & Casualty; General Electric Chrysler; John Hancock, and Montgomery Ward.

A question that is often asked is: "Why would a bank owned by a commercial company make loans to competitors of that commercial company?"

First, let's remember that under the terms of this amendment, the bank will be prohibited from lending to its affiliated companies—that means its commerical parent and any of the commercial company's subsidiaries. If the bank can not legally lend to its affiliates, what choice do they have, if they want to run a profitable banking business, but to lend to unrelated companies, including their competitors?

We know that banks today compete with each other; they lend to each other as well. Banks compete with securities firms, but they are substantial leaders to the securities industry.

Most importantly, alternative sources of credit are just too numerous, with 12,000 banks, 6,000 insurance companies, 9,000 securities firms, 3,000 mutual funds in this Nation today.

□ 1250

So, if a competitor could not get a loan from one bank, it could easily go to another credit provider.

So, Mr. Chairman, the main point I want to make in summing up is that American banking is in trouble. President Bush provided the leadership by sending Congress a far-sighted and far-reaching overhaul of an ailing industry. It is up to us to display the courage to enact his plan and to take America into the 21st century.

I say to my colleagues, "If you want to continue to stick it to the taxpayer, or want to increase the influence of foreign banks on the availability of credit to American consumers and business, then you ought to vote against the amendment to be offered by the gentleman from Massachusetts and the gentleman from New Jersey. Some may call doing that bank reform. I would call it poor public policy."

So, Mr. Chairman, if we want to maintain America's competitive edge

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in the world, we can only achieve this by embarking on this bold new program. The risks have been held to the barest minimum, but the rewards are limitless.

Mr. NEAL of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. LENT. Mr. Chairman, I yield to the gentleman, but just for a very brief comment.

Mr. NEAL of North Carolina. Mr. Chairman, I appreciate the gentleman from New York yielding to me.

Mr. Chairman, the distinguished chairman of the Committee on Energy and Commerce pointed out that the bank had made some bad loans to dictators, and I would like to know how in this title IV that what they have in mind there is going to stop any loans to dictators. Could someone please help me with that?

Mr. LENT. Reclaiming my time, Mr. Chairman, there will be an opportunity at the appropriate time to debate the motion to strike title IV. I may very well join the distinguished gentleman on the other side of the aisle when that time comes.

Mr. Chairman, I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, I thank the gentleman from Massachusetts [Mr. MARKEY] for yielding, and, before I talk about what we did in subcommittee, I want to commend both the full committee chairman, the gentleman from Texas [Mr. GONZALEZ], and the gentleman from Michigan [Mr. DINGELL], for their leadership in bringing about the compromise that we are debating at this time. I believe that their hard work and their understanding of the issue that is before us today has resulted in legislation that all of us can be proud of as Americans and, certainly, as leaders of the people who have sent us to these Halls of Congress to represent them and their interests.

As my colleagues know, this compromise avoids the kind of deregulation ideas that the decade-old Garn-St Germain bill contains, which has led us into the S&L fiasco we find ourselves in today. That action has cost taxpayers hundreds of billions of dollars already, and I am sure none of us want to see that kind of bailout become necessary in the banking industry. Instead, this compromise conditions expanded powers on careful regulation and strong consumer protection that require disclosure when products are not federally insured.

Now I think that is important because many consumers seem to believe that all products are to be federally insured. That is absolutely not the case, and we must have disclosures to make sure that we understand that important fact.

Title IV reaffirms that we do not want our constituents, or any other American who is going to a bank for a loan to have to be faced with tie-ins. Tie-ins are when a person seeks a loan and the bank says, "Well, in order for you to get this loan, you'll have to get your insurance through us." That is the restriction that we have in our piece of legislation.

Now I do not want my colleagues to make the mistake of thinking that by merely expanding banking powers we are going to improve the banks' financial health. We have found that is simply not the case; and when it comes down to insurance, we know that is not the case.

All of us are aware that we have experienced a number of insurance failures in the past 2 or 3 years. A big one was Executive Life, that had some 300,000 policyholders who have been affected. Of those policyholders who had annuities, they are only being paid 70 percent on their money. And then there was the insolvency of the Mutual Benefit Insurance Co. that added new troubles. I believe that these are the kinds of risks from insurance that will be heaped upon banks. Banks already have their troubles, and I do not see any need to exacerbate them by allowing them to underwrite insurance.

On the other hand, Mr. Chairman, our compromise protects depositors, policyholders and, ultimately the taxpayers from paying out billions of dollars for deregulated mistakes that we have seen in the past. Further, we are not interested in protecting the insurance and securities industries from any kind of competition, as some have claimed.

The Consumer Federation of America supports our position. There is plenty of competition in the industry. In fact, insurance failures were the direct result of all the competition that we have seen there.

The single limitation we have placed on banking insurance activities prohibits out-of-State banks from coming into my colleagues' States to sell insurance without their State's approval. The Federal Reserve Board opposed the Delaware law that would permit such sales because they said it would threaten the financial soundness of banks, and surely none of us want to do that.

The Energy and Commerce Committee's Subcommittee on Commerce, Consumer Protection, and Competitiveness, which I chair, has jurisdiction over insurance. The legislation was referred to the subcommittee to review the insurance provisions of the bill. Despite a short timeframe, the subcommittee reviewed these issues carefully. While we made certain changes to the bill with respect to the insurance powers of banks, we retained most of the work done in the Banking Committee.

The traditional business of banking—serving as a depository and loan institution—has for the most part been separate from the business of insurance. However, some banks are eager to be permitted to engage in the business of insurance, including underwriting, as an additional source of revenue. Our committee's action and the compromise reflect a cautious approach.

Our experience in examining the insurance industry tells us that expanding bank powers to include insurance underwriting may just add new risks to a bank's bottom line, thus adversely affecting safety and soundness. Expansion of bank powers does not address the problems which have caused the banking crisis, particularly when one considers the potentially risky nature of insurance underwriting.

In Illinois, we have had 27 bank failures since 1980. These failures include Cosmopolitan National Bank of Chicago, which failed this year with assets of $121.4 million. The total assets of the 27 banks had $695 million in assets. In addition, others did not fail, but were pumped up with FDIC funds. That included Continental Illinois Bank in 1984, that had $30 billion in assets at the time. I doubt that allowing them to sell insurance would have made a difference.

We were also concerned about the impact of expanded banking powers on the insurance industry and its millions of policyholders nationwide. The Subcommittee on Commerce, Consumer Protection, and Competitiveness and the Oversight and Investigations Subcommittee have conducted many hearings on the current solvency problems in the insurance industry. Insolvencies that were once unheard of in the insurance industry are on the rise.

Indeed, I'm sure most of us have heard from constituents who have been affected by the recent insurance company failures, particularly those affected by the failure of Executive Life, where annuitants are currently receiving reduced benefits. At the same time, the committee's extensive hearings have revealed serious inadequacies in the current system of insurance solvency regulation.

Even if expansion of banking powers into insurance underwriting were desirable, now hardly seems the right time to do so. This is one of the reasons the Commerce Committee—and the compromise—rejected the commercial ownership of banks and the diversified holding company concept.

While allowing banks to sell insurance generally raises less risks than underwriting, the committee wanted to make sure that consumer protection issues were addressed. For example, we protected consumer confidentiality. We also prevented undue pressure in the sale of financial services. We did this by prohibiting banks from soliciting the sale of insurance products required as part of a loan prior to a written loan commitment. The compromise between the two committees generally maintains these important protections, with modifications to conform to the agreement to delete the diversified holding company.

In addition, recent court and regulatory decisions have often expanded the ability of banks to sell insurance without a clear concern for congressional intent. The committee felt it was important to speak clearly on this matter so that public policy is rightfully made here in the Congress, rather than through the regulators or the courts. Let me note here that if we strike title IV, then Congress will effectively abdicate its responsibility in this area to appointed regulators and judges.

More specifically, the Commerce Committee bill, and the compromise, support the rights of States to make their own decisions with regard to insurance sales by State banks within their borders. The committee bill and the compromise provides States the opportunity to speak clearly about whether out-of-State banks can sell insurance within their borders. The bill and the compromise establish the appropriate parameters of insurance sales by national banks in small towns.

Let me speak briefly on the issue of commercial ownership of banks, a major difference between the two reported bills. By maintaining the long tradition of the separation of banking and commerce, the Commerce Committee also maintained the separation of banking and insurance underwriting, for the policy reasons I discussed earlier. The compromise maintains this important separation.

But, more broadly, let me emphasize my grave concerns with the very concept of a commercial holding company owning a bank. History teaches us that the potential for abuse and large scale scandal is just too great. As we've seen just recently with the BCCI and Salomon Brothers scandals, the regulators have a hard time even dealing with current complicated corporate structures. It will be that much more difficult with a so-called diversified holding company.

Let me emphasize that the Commerce Committee's bill, and the substitute, reflects a compromise on the insurance powers of banks. It allows certain powers beyond those permitted by the Commerce Committee when it last considered this bill in 1988. However, it clearly prohibits the unlimited expansion of insurance powers proposed by the administration.

Now I know there are some who are unhappy with the overall compromise. They are now urging that we completely strip the bill of title IV, which addresses these issues. I find this position highly ironic.

Many of us would have preferred a narrow bill to begin with. However, when the decision was made to proceed with a broad bill, both the Commerce Committee and the Banking Committee spent much time examining this issue in good faith.

Some who are unhappy with the results of our deliberations would now strike the product of our hard work. I think now is the time to decide the issue of bank powers.

The issue of bank powers came up in 1988. It came back again this year. In fact, it will keep coming back until it has been adequately dealt with. Now is the time to resolve the issue of bank powers, especially since the two committees with jurisdictional interest have come to a fair and reasonable agreement.

In addition, we should all be very careful before we support another financial deregulation package. The compromise is not such a package. Rather, it is a balanced approach designed to ensure the safety and soundness of banks. But if we fail to support the compromise, those who want unchecked financial deregulation will either succeed in achieving their goals through pliant regulators, or they'll be back next year or the year after. We should have learned some painful lessons from the savings and loan debacle.

Let me close by addressing an issue which, while not under the Commerce Subcommittee's jurisdiction, is of great concern to me and to my district. Last week, the Federal Reserve Board released a study of bank mortgage lending practices which showed that mortgage lenders reject black applicants far more often than whites. In Chicago, 23.6 percent of mortgage applications from blacks were denied, compared to only 7.3 percent from whites and an overall denial rate of 9.9 percent. And this difference cannot be explained by income level, as white borrowers in the lowest income category had their mortgage applications approved more often than black applicants in the highest income category.

Congressman JOE KENNEDY will offer an amendment to strengthen the enforcement of antidiscrimination-in-lending laws. I will strongly support that important amendment, and I urge my colleagues to do the same.

In summary, I think that the banks want nothing less than total deregulation, which I do not think they are entitled to. They want to use the same arguments that were used by the S&L's some 10 years ago, and look where they got us. The S&L's were wrong and so are the banks.

Mr. LENT. Mr. Chairman, I yield 4 minutes to the gentleman from North Carolina [Mr. MCMILLAN], the ranking member of the Subcommittee on Commerce, Consumer Protection, and Competitiveness.

Mr. MCMILLAN of North Carolina. Mr. Chairman, when the administration came to Congress with their original proposal, they sought to reform America's financial system by addressing the inadequacies of our banks, and in a speech I made last night in general debate I pointed out that North Carolina is a perfect example of what we are talking about. We have had intrabranch banking, we have had insurance powers, we have had the maximum allowable securities powers under the law for all of the post-World War II period and produced one of the strongest banking systems in the United States, enabling it to move into troubled banks in other States and pull them out. Unfortunately, the Dingell-Gonzalez agreement on title 4 misses too many opportunities to enhance the strength and competitiveness of our banking system at potentially great cost to both consumers and taxpayers. Desirable goals of limited bank sales of insurance where States allow it only, new sources of capital for banks, more competition and assessable capital formation for business through security underwriting and sales and parity between State and national banks are all issues which have a direct benefit for consumers and taxpayers. These are the means by which competition among strong institutions is created, and competition means lower prices and greater choice for the consumers who use those services, as well as discipline for the system.

What we have in section IV actually reduces the insurance powers of State and national banks in comparison with current law. Currently, national banks may sell insurance statewide from a bank domiciled in a town of 5,000 or fewer residents. The Dingell-Gonzalez agreement limits sales to individuals who reside or are employed in the town itself or own property located in the town.

Currently, national banks may underwrite and sell title insurance. The Dingell-Gonzalez agreement eliminates that option, preserving it for lawyers.

Currently, a State-chartered bank can sell insurance within that State and to other States that authorize the sale of insurance. The Dingell-Gonzalez agreement would prohibit State banks from selling insurance in other States unless expressly authorized to do so by legislative action.

The issue here is not risk. None of the alternatives that we have before us would allow banks to get into the underwriting of insurance.

The version of the Committee on Banking, Finance and Urban Affairs of both insurance and securities provisions would have been far superior to what we have before us today. Current law is better than the Dingell-Gonzalez agreement.

Unfortunately, these important issues cannot be addressed in detail given the amendments ruled in order today. One of the few ways, the only way perhaps, we have before us to improve our banking system in this respect is to vote yes on the Barnard-Hoagland motion to strike title 4, and to revisit it at a later date and do a credible job on it.

Mr. MARKEY. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Speaker and colleagues, first let me praise the gentleman from Massachusetts [Mr. MARKEY] and the gentleman from Michigan [Mr. DINGELL] and the gentleman from Texas [Mr. GONZALEZ] for their excellent work on this legislation. I think all the Members know that the financial issues that this bill presents are complicated, they are technical, they are arcane, they are hard for Members to absorb.

□ 1300

Mr. Chairman, I would submit that the one issue that our constituents care about the most is fighting financial fraud. That is what we hear at our town meetings. That is what we hear about when we go home and our constituents ask, "What are you going to do about fighting the kind of ripoffs and the kind of deceptive deals that were engineered in the 1980's with junk bonds and with speculative real estate deals that so often drained our economies and our communities dry?"

I am here to say to my colleagues that title IV, above everything else, is about fighting fraud. If we are serious about fighting the kind of financial fraud that we saw in the 1980's, we have got to support title IV and oppose striking it.

We learned recently that the head of the Resolution Trust Corporation said that 40 percent of the S&L problem was due to fraud and illegality. Our constituents would read about it constantly. They read about how insured deposits were being used for vacation trips, for homes, and for every manner of spending.

Title IV is the first comprehensive effort in any financial bill to deal with financial fraud. For example, for the first time accountants would be required to report fraud to Government regulators.

I think all of our colleagues know that talking about accounting is a little bit like discussing prolonged root canal work. The auditors, the accountants are the very first line of defense in terms of fighting financial fraud. As just one example, the judge in the Keating case said, "Where are the auditors? Why didn't they report this kind of thing?" Under this legislation, if we keep title IV, we will have a chance to make sure that in the future people like Charles Keating's auditors would have to report financial fraud, and then we would have the kind of tools to fight the kind of financial abuse that we saw in the 1980's.

Mr. LENT. Mr. Chairman, I yield 4 minutes to the gentleman from New Jersey [Mr. RINALDO], the ranking member of the Subcommittee on Telecommunications and Finance of the Committee on Energy and Commerce.

Mr. RINALDO. Mr. Chairman, the driving force behind H.R. 6 is the need to recapitalize the bank insurance fund. Over 200 banks a year have been failing. The FDIC says they will need to borrow over $9 billion from the Treasury in 1992 alone to bail them out.

As more banks fail, more and more money will have to be poured into the fund. With each infusion of taxpayer dollars, confidence in the financial services sector is damaged and the banks become weaker.

We must explore every alternative to resolving this situation. Later in the debate, I will offer an amendment that would allow commercial corporations to purchase failed and failing banks. Despite all the technical talk, my amendment has one simple purpose—to save the taxpayers money.

Mr. Chairman, I offered this amendment in the subcommittee, and I offered it in the full Committee. I am proud that the gentleman from Massachusetts [Mr. FRANK] and the gentleman from Georgia [Mr. BARNARD] from the majority side of the Committee on Banking, Finance and Urban Affairs are strongly supporting and pushing this amendment.

Mr. Chairman, we can debate whether the banking system as a whole needs capital, but there can be little argument that a bank that is failing or has failed needs capital. The question that we need to ask ourselves then, as architects of public policy is, "Where is this money going to come from?"

It is not likely to come from the financial sector of our economy. It is the weakness of the banking and thrift industries that have us here in the first place. Institutions trying to meet new and higher capital standards, increased oversight, and more cautious loan underwriting standards are not going to be able to pull themselves and their weak and dying brothers out of trouble. Neither bank earnings nor the very limited support they can find in the debt and equity markets can adequately address the capital needs of failed and failing institutions.

Is the capital going to come from outside our borders? Foreign investors do have the capital. As of 1990, they controlled almost 23 percent of the U.S. banking market. Foreign financial institutions have had a field day buying up American banks, while their potential competitors in American commerce had to sit back and watch helplessly as target after target fell. To refuse to allow American commercial companies to become more actively involved in banking means the role of foreign banks will increase. I think increasing the influence of foreign banks on the availability of credit to American consumers and business is poor public policy. Let's free up American interests to compete with them. Let us stop discriminating against American investors within our own national boundaries.

If capital cannot be raised from within the banking industry or through equity or subordinated debt, and foreign investment is not desirable, there are only two alternatives left. Either the bank is allowed to fail and the taxpayer takes the hit, or Congress must allow commercial investment. With 80 percent of the capital in the United States in commercial enterprises, I will offer this amendment clearly convinced that corporate America is the best place to look for desperately needed new bank capital.

To be allowed to acquire a bank, the amendment requires the commercial firm to take all of the bank's poor and nonperforming loans and properties. The acquiring company cannot cherry pick only the good assets, and that is a more strict requirement than is currently imposed by the FDIC when banks, not commercial companies, acquire failing banks, or by the Resolution Trust Corporation when thrifts are acquired. Under current law and practice, when a failing bank is acquired, the purchaser is often allowed to pick and choose the assets it will take as part of its agreement with the regulator. The undesirable assets are what the Government gets stuck with, so it comes as no great surprise when it cannot sell them. That cannot happen under our amendment.

Furthermore, the failing bank amendment prohibits Federal assistance in the acquisition of the bank. The commercial company will not be helped by some massive infusion of capital in the form of taxpayer dollars. In short, the commercial company is going to take the whole company and position its risk capital in between the bank and the taxpayers. This is exactly what we want. The infusion of commercial capital will reduce the exposure of the bank insurance fund. Instead of a failed entity that must be liquidated, the institution will now be an operating business, paying premiums into the deposit insurance fund, and taxes on its profits into the Treasury.

In addition to contributing to resolving the banking crisis, this amendment also will remove one of the inequities of H.R. 6 as currently written. As the result of changes to the Banking Act contained in the bill, banks will be able to purchase securities firms. But without this amendment to allow commercial firms to acquire failed or failing banks, large securities firms, almost all of which have some commercial enterprises within their corporate structures, will be prohibited from acquiring banks. Those securities firms that want to improve the product mix of financial services that they can offer the public by acquiring a bank should be able to do so, but the price they must pay for the two way street is they must contribute to the resolution of the banking crisis. By limiting them to acquiring failed or failing banks, the tremendous private financial resources of Wall Street will help restore banks to financial health and in that way we will help bring an end to the credit crunch and make loans readily available to our constituents again.

The amendment offered today is banking reform, not banking deregulation. To meet the concerns expressed by some, this amendment has been written to include the most severe restrictions on bank conflicts of interest. When the commercial company acquires the bank, it is subject to all of the firewalls and other prudential limitations contained in the remainder of the bill. H.R. 6 contains new levels of examination and enforcement authority to both the bank and securities regulators. It also creates private rights of action. And H.R. 6 does not reduce existing antitrust or antifraud protection in any way.

The prohibition on commerce and banking was not part of the legislative revolution of the New Deal. Until passage of the Bank Holding Company Act of 1956, there were no restrictions at all on commercial firms owning any number of banks. In 1956, commercial firms could still own one bank, and it was not until 1970 that one-bank holding companies came under the Bank Holding Company Act which prohibited commerce/banking. Trying to stop the interaction of commerce and banking is like passing legislation against bad weather. Since 1970, every legal contortion from regulatory definitions that somehow conclude that selling computer systems is not commerce, to the creation of something called a nonbank bank, have been used to allow the natural synergy of business and financial service to grow despite its legal restriction. Limited purpose banks are owned today by J.C. Penney, Aetna Life and Casualty, American Express, Chrysler, General Electric, John Hancock, Montgomery Ward, and scores of other nonbank organizations. Mr. Chairman, there is undoubtedly enough interaction of commerce and banking permitted under our existing law to allow us to make use of it to help resolve the banking crisis, and minimize the demand on our constituents by substituting commercial investment in failing banks for the alternative of bailing them out with taxpayer dollars. I urge all of my colleagues to vote for the amendment.

Mr. MARKEY. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, we are on the eve of a major bill here, and I hope we will not make a major mistake. I hope we will not repeat the S&L crisis all over again.

We have major problems in the banking system as it is presently defined. We have had banks make bad investments time after time after time with their insured deposits. The problem is not that the banks are not getting enough new industries; the problem is that the banks do not know how to handle what they are in right now. The reason is simple. If you are given free money, insured deposits, and you can invest them in just about any risky activity you want, you are going to get into trouble.

That is what happened with the S&L's in 1982. That is what is about to happen in this body again unless we take corrective action. There are two ways to take that action. The first is on the compromise Gonzalez-Dingell amendment. It is not my preferred way, but if we strike it, we will let the deregulators deregulate it as they did with the S&L's and as they did willy-nilly with the banking industry, and we pay the price.

I would argue that the only real reform on the floor today is the core bank proposal. Core bank says once and for all that you cannot use insured deposits in any risky type of activity. Core bank says that insured deposits ought to be used for the purpose that Hoover and Roosevelt originated them, to help the average person be sure their money is safe in an institution, not to tell these large institutions that they can do everything they want with insured deposits.

Core banking does not affect almost all the banks in this country, because they are little banks and good banks and they have stuck to their knitting. They have made mortgages, small business loans, and things banks traditionally do.

□ 1310

But the large money center banks are weak. They are weak not because there are too many restrictions on them, but because the market does not give an adequate test for them. You cannot regulate, you cannot put a regulator looking over the shoulder of a bank for each loan. They will mess up. But if you tell them for risky activities they must get their money where every other American industry gets its money, from the marketplace, and thus they have to have someone look over their shoulders before they give them that money, we can have safety and soundness.

Mr. Chairman, core banking will protect the depositor. Core banking will help the banks. It is the only real reform that learns the lessons from the savings and loan crisis.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from North Carolina [Mr. NEAL], the chairman of the Subcommittee on Domestic Monetary Policy of the Committee on Banking, Finance and Urban Affairs.

Mr. NEAL of North Carolina. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the first point is it is absolutely absurd to compare what our bill does with banks to what was done with the savings and loans. What happened with the savings and loans in the early 1980's, when they had problems, was this: Their capital was reduced; supervision and regulation were reduced at the same time they were allowed, with taxpayer-insured funds, into new activities like junk bonds and direct investment in real estate.

Our bill does exactly the opposite for banks. It increases capital requirements. It increases regulation and supervision. It would not allow new activities with insured funds.

So it is simply a terrible misstatement to say that what we are doing is anything like what was done with the savings and loans.

Now, as to this idea that somehow without title IV this is a fat cat bankers bill as someone said earlier. I ask this question: Why is an activity that a bank could do a fat cat activity and not a fat cat activity if it is done by an investment banker? This title IV offered by the gentleman from Texas [Mr. GONZALEZ] and the gentleman from Michigan [Mr. DINGELL] takes banks out of Government securities, something they have done for years, which lowers the price for local governments and so on, but it lets investment bankers do it. It takes banks out of mutual funds and discount brokerage, essentially risk-free endeavors, and lets investment banks do them.

So why are these fat cat activities for banks, but not fat cat activities for investment bankers? That is an absurd idea.

Mr. Chairman, this is all about taking something away from one industry and giving it to another for anticompetitive reasons. It is a narrow special interest approach and should be defeated. Defeat title IV.

Mr. MARKEY. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. GONZALEZ], the chairman of the full Committee on Banking, Finance and Urban Affairs.

Mr. GONZALEZ. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, some have suggested that striking title IV would leave everything status quo—no new powers and, thus, no need for new safeguards. Unfortunately, Mr. Chairman, this isn't the situation we face. Some of the biggest of the big bank race horses are out of the barn through loopholes and loose interpretations of the Glass-Steagall prohibitions. The regulators have already taken the barn door off its hinges and we need to construct the public-interest fences or face financial disasters down the road.

Striking title IV—eliminating the protections provided by the Banking and Energy and Commerce Committees—protects some of the big names of banking. Little wonder that the lobbyists have been crowding the halls, clogging the phone lines, filling the mail bags, and buying huge multipage advertisements.

Let me just mention familiar names of some of the corporations that benefit from a strike of the safeguards—corporations that have slipped around Glass-Steagall through the benevolence of the regulators and formed so-called section 20 securities subsidiaries: Bankers Trust, Chase Manhattan, Barnett Banks, Chemical Bank, Citicorp, First Chicago, J.P. Morgan, First Interstate, C&S Sovran, Banc One, NCNB, Marine-Midland, Manufacturers Hanover, and Fleet/Norstar.

And other similar multi-billion dollar corporations around the Nation who are pleading they just can't afford to abide by public safeguards of title IV. If we strike title IV, these corporations stay out of the mainstream of regulation. That, my colleagues, is what is behind much of the furor over title IV.

Mr. Chairman, the battle over title IV is a real test of where Congress stands vis-a-vis the public interest and the interest of big banking corporations.

Designating the amendment to this title as just "striking title IV" seems too mundane—too low key in light of its impact. In the interest of accuracy and in recognition of its far-reaching nature, I think we should rename the amendment as the "Big Bank Holding Company Protection Act of 1991." That is much more majestic.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. OXLEY], a member of the Committee on Energy and Commerce.

Mr. OXLEY. Mr. Chairman, this bill will be long debated for at least a couple of days. I would like to speak directly about the Rinaldo amendment that has been referred to before, essentially whether commercial entities can purchase failed or failing banks.

Mr. Chairman, all we have to do is look at the recent history of what has happened in the area of banks that are in trouble to instruct us as to what might happen should this occur again. New Hampshire, as many Members know, had some very serious difficulties with their banks. Many of their banks were just recently purchased over the last few weeks by Irish banks, so we have foreign ownership now of many of the largest banks in New England.

In Ohio we have had problems in the past with S&L's. In the case of Ohio we had a major corporation purchase several savings and loans, and essentially kept their doors open, kept them loaning money to people who wanted to buy homes during that very difficult period, because that corporation had deep pockets. It had the kind of capital that could keep these institutions open.

Mr. Chairman, essentially we are looking at who can provide the capital infusion for these institutions. If we are looking at the banks and we limit the universe as to who can purchase failed or failing banks, we are going to be looking a long, long time.

Mr. Chairman, I would suggest that this is an excellent opportunity to take the monkey off the back of the taxpayers and allow those commercial enterprises under the Bank Holding Company Act to purchase those banks. Some people say well, they will not be interested in buying these banks. How do we know, unless we give them the opportunity to do so. That is all we are asking, is in the marketplace when you have a sale of a failing bank, allow that commercial enterprise to at least bid on it, and make them purchase the whole enchilada here, not to just cherry-pick off the best loans.

Mr. Chairman, I think this is good public policy. Let us support the Rinaldo amendment.

Mr. MARKEY. Mr. Chairman, could the Chair update us as to the time remaining on both sides?

The CHAIRMAN pro tempore (Mr. HAYES of Illinois). The gentleman from Massachusetts [Mr. MARKEY] has 13 minutes remaining, and the gentleman from New York [Mr. LENT] has 11½ minutes remaining.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentleman from Vermont [Mr. SANDERS], a member of the Committee on Banking, Finance and Urban Affairs.

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think the Dingell-Gonzalez approach offers the taxpayers some protection, and I intend to support that. I think that the concept of the gentleman from New York [Mr. SCHUMER] of core banking makes some sense, and I intend to vote for that as well. But I am going to tell you why I am going to vote against the entire legislation, unless somebody can answer me a simple question: As the only independent in this body, I have a simple question for my Democratic and Republican friends. Title I, section 101, puts the taxpayers on the line for $30 billion. Many economists think it will end up being a lot more than that.

Now, I ask a question: When we asked the other day for $1.5 billion for children, people were jumping up and down saying we cannot add to the deficit. Now, my understanding is this bill dumps another $30 billion into the deficit. Will somebody suggest to me if I am wrong on that? Am I wrong? If it dumps another $30 billion into the deficit, will anyone suggest to me I am wrong in suggesting that this bill is going to fall on the working people and poor people of this country who are going to be forced to pay it out?

Mr. Chairman, vote no.

□ 1320

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. HOAGLAND], a member of the Committee on Banking, Finance and Urban Affairs.

Mr. HOAGLAND. Mr. Speaker, under the rule that we adopted just a moment ago, we are basically going to have two options with respect to the issues of the proper powers of banks in the area of securities and insurance and also the commercial ownership of banks issue.

I have prepared this makeshift chart here in my office to try and stress the severity of the bank failure problem in America today.

We can see, beginning with about 1985, both the number of failed banks and the number of banks on the problem list have significantly increased. As far as the failed list is concerned, the small banks have a disproportionately large number to the failed banks. There has been some rhetoric about large banks. Small banks, unit banks, fail at a greater percentage rate.

It is for this reason that the FDIC is running out of money, and they are asking for $70 billion to loan to the fund so that this problem can continue to be dealt with.

We have spent a year hearing experts, economists, regulators, Chairman Seidman, others who really understand the industry well. Their basic message was, "We need to strengthen the industry, allow it to become more profitable so that there will not be as many failures and so the taxpayers can be protected."

The truth of the matter is, so many of us are concerned with the agreement between these two chairmen because it tends to weaken banks, not strengthen banks. The experts we talked to start from here, have prescriptions that go from here to here to here. Paul Volcker goes this far, does not agree with commercial ownership. Bob Light from the Brookings Institute, all the way to here with respect to commercial ownership. Everybody is at a different spot somewhere along the scale.

The message is the same. Let us strengthen the industry.

The proposal offered to us by these two gentleman goes the other direction and weakens the industry. It is not a wise prescription.

I would suggest we strike title IV.

Mr. MARKEY. Mr. Chairman, I yield 4 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, there seems to be a great deal of confusion as to exactly what this legislation does with respect to the rollback of existing powers that banks have. Let me just observe that with the Dingell-Gonzalez compromise before us, municipal securities can continue to be underwritten and marketed inside the bank. This is different from the language contained in the Committee on Energy and Commerce bill.

There is going to be a lot of bad information spread across the country that we are still voting on the Committee on Energy and Commerce bill. We are not.

Certain private placements can continue to be underwritten and marketed inside the bank with this compromise. All Government securities can continue to be marketed inside the bank under this compromise, and banks can sell securities, including mutual funds, inside the bank.

An exception, the so-called Lincoln lobby debt exception, prohibits only the sale of the bank's, or its parent's own stock and bonds.

I would submit that makes perfect sense. The 39 big banks with so-called section 20 underwriting subsidiaries are now, by Federal Reserve Board orders, required to have those affiliates registered and regulated by the SEC under existing law. The Fed's orders also impose firewalls, similar to those in our bill.

Our bill, however, would not allow the regulators to administratively repeal these protections, although we would allow them to modify the firewalls to respond to current marketing conditions.

Currently, however—and keep this in mind—the Fed is in the process of acting to undo a number of their own firewalls. I would just point out, what we are attempting to do with this legislation is to prevent the Fed and the SEC from rolling back, from lowering their own firewalls.

I would also observe that after January 1, 1993, all banks have to move out of their bank any securities activities except the ones that I have just mentioned. They do not have to move into holding companies as some have suggested. They merely have to establish a subsidiary.

So let us keep the facts straight under this compromise proposal.

Mr. ECKART. Mr. Chairman, will the gentleman yield?

Mr. SLATTERY. I yield to the gentleman from Ohio.

Mr. ECKART. Mr. Chairman, one of the points the gentleman from Kansas raised is what would happen if we struck one of the provisions of title IV known as the Lincoln lobby debt exception. For those who do not remember what the Lincoln Savings and Loan was, let me remind my colleagues that it was the financial institution owned by the gentleman by the name of Charles Keating who, in the process of taking depositors' money in through his Lincoln Savings and Loan lobby, duped thousands of investors into buying his financial institution's own securities under the guise of savings.

Strike title IV and we will encourage financial institutions such as that of Charles Keating to continue to rip off investors.

I think the point the gentleman made in his remarks should not be lost upon us. If we believe that folks like Charles Keating and the Lincoln Savings and Loan should be allowed to perpetuate the kinds of activities that visited difficulties both on people in this institution and on financial institutions all across this Nation, then repeal title IV. If we think that Charles Keating and his cutsy-dutsy little tellers ought to be able to induce widows and children into putting their money into allegedly secured investments, when the reality was that they were not, then go along and repeal title IV.

The fact of the matter is that the gentleman from Kansas is correct. We close the Charles Keating loophole. We end the Lincoln lobby debt and prohibit institutions from posing as legitimate debt, not as an investment, protect the taxpayers, protect the legitimate saver, and keep title IV in the bill. Let us not let Charles Keating get what he tried so hard to get in a different way.

Mr. SLATTERY. Reclaiming my time, I thank the gentleman for his remarks. He is absolutely correct.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. RITTER], a member of the Committee on Energy and Commerce.

Mr. RITTER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, in 1933 the Members of this body launched a great experiment called the New Deal. They had faced the stock market crash of 1929, and the coming of the Great Depression, and they knew that difficult times called for bold solutions.

They fashioned three pieces of legislation: The Banking Act, the Securities Act, and the Home Owners Loan Act that reshaped the landscape of American financial services.

These were not pieces of legislation that enshrined the way business had always been done. Rather, they cut through the traditional approaches to Government's role in regulation. They recognized that a system of regulation must be flexible enough to address the problems of the time in which it is called upon to act.

The Members of this body in 1933, were men and women of great vision. Were they here today, I believe they would call upon us to come up with bold solutions to the problems of our time. And they would laugh, scoff at the idea that we should address the economic and financial problems of our country in the 1990's with legislative solutions designed to meet the challenges of the 1930's or the 1950's or the 1970's.

There can be no serious economic progress, in the crucial financial sector of this economy, until the large pool of failed and failing banks has been eliminated.

The legislation before us today will not do the job. Simply stated, if we do not resolve the failed and failing banks situation, we play havoc with our financial services industry in this country. We keep them from engaging in their proper role of ensuring economic growth in the United States.

I ask my colleagues to look very carefully at the Rinaldo amendment, which does not go near far enough but at least is some positive solution to bringing additional capital, that is not taxpayer-generated capital, to solving this banking crisis.

□ 1330

Mr. MARKEY. Mr. Chairman, I yield myself 1 minute.

I would just like to make one clarification, because there is the ongoing point that is made on behalf of the bankers in the country that they were forced into all these bad loans, they were forced because they were not allowed to get out into the securities business, which is even more dangerous than the banking practices which they had engaged in.

Let me just for the record state that when those big city bankers in 1979, 1980, 1981, and 1982 were loaning all of that money to Third World countries, they were getting their pictures on the front covers of Forbes and Fortune as the financial geniuses of our time. When they were loaning money out for all these LBO's in 1984, 1985, and 1986 they were getting their pictures on the cover of Fortune and Forbes as the geniuses of our time. When they were loaning money to Donald Trump on his word for commercial real estate and for the Trump Casino, they were the geniuses of our time.

Now they tell us they were forced into doing this. We want all of those awards back, because they told us that they were the banking geniuses of our time.

Mr. LENT. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. FISH], a member of the Committee on the Judiciary.

Mr. FISH. Mr. Chairman, I thank my friend for yielding time to me.

Mr. Chairman, for months, bankers, financiers, insurers, consumers, and the Treasury have put forth proposals for the reform of the U.S. financial sector.

H.R. 6 and the package of amendments embody both astute and meddlesome approaches to reform.

The commendable goal of this historic legislation is twofold: The modernization of banking and the protection of deposition and the taxpayer. Unfortunately we may have before us today too broad a vehicle to realize this goal. With the lingering nightmare of what occurred after FIRREA in mind, the legislative process should seek to avoid opening new roads to imprudent financial adventure.

There are sound and obvious reasons for prompt regulatory response to banking ills, recapitalization of the bank insurance fund, and revised deposit insurance reporting, all of which are contained in title I. These provisions strive for greater responsibility for money borrowed from the taxpayer. Likewise, title II's regulation of foreign bank operations and their conduct in the United States is an important and timely step.

Title III is a sober approach to greater bank operating efficiency. Allowing nationwide banking and branching will result in wider choices for the financial consumer. The choice left to the States to opt out not participate in an interstate system would be a positive additional protection of States rights.

Bankers, insurers, the securities industry, and three committees of the Congress have all labored to shape the outcome of issues contained in title IV, sometimes to their own favor, but for the most part after great efforts at compromise. Title IV needed revision but showed promise as it was reported out of the Banking Committee.

Even that version raised concerns over the concentration of too much economic power. Would the consolidation of banking with commerce, securities or insurance hurt the average consumer and greatly increase the likelihood of anticompetitive activities? I too have strong reservations about removing existing barriers between commerce and banking. I am thankful it is no longer in the bill before us.

We have in article IV an opportunity to choose whether commercial banks should have statutory authority to get into investment banking. But, if they are allowed to get into the securities industry, we must make sure there are clear and workable safeguards against anticompetitive arrangements. The shape of title IV's provisions in this area are an awkward attempt. The far preferable language in the Judiciary Committee's amendment should be considered at a later date. It would make it clear that the Federal antitrust laws would apply to commercial banks offering two or more products as a package sale.

Important and better regulation is clearly the course taken in title V for Federal deposit insurance reform. I am pleased that the title retains savings bank life insurance activities in my State of New York which has a long, popular, and sound tradition in this area.

Title VI is also a sound work product and I applaud the requirement of the GAO to report to Congress within a year on the effects of mandatory cashing of Government checks.

Mr. MARKEY. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Chairman, the amendment to strike title IV is being advertised as the kind of deregulation that will allow banks to grow out of their problems. But this goes much further. What you are really doing is supporting desupervision.

Have we not learned our lessons? Go back a month or two to the Salomon Brothers investigations, and listen a moment to what one of the Nation's preeminent regulators had to say. When asked how long it would take to determine what happened when you get to the bottom of the Salomon Brothers scandal, his answer? "Give us 6, maybe 9 months, and maybe we can tell you." These are the so-called regulators that proponents of this amendment would have us rely on to protect taxpayers from another mega-bailout.

My colleagues, that is what we can expect from current law without the protections of title IV. Somehow we are led to believe that Cole Porter-like "anything goes" deregulation somehow will stem the tide of failures and bad loans that has brought the Members that chart that my colleague from Nebraska showed. But the rising tide of bank failures only underscores one thing, that run-amok deregulation of the savings and loan industry and the banking industry is not the answer to our problem.

Without title IV, this banking bill is going to end up in the same kind of train wreck we have seen in the BCCI scandal, the Salomon Brothers scandal and the savings and loan industry. This is not, indeed, deregulation, but this is, as I mentioned, desupervision. It would give the Charles Keatings of this world through the front door what they could not buy through the back door. It gives to the State of Delaware a very special exemption that allows one State to dictate insurance sales practices and policies to the balance of the 49 other States. They get through the front door what we could not, through regulation, give them in the back door.

Ladies and gentlemen, this bill and striking title IV is a banker's dream. It is a lot like the final scene in the Frank Capra classic "It's a Wonderful Life" where James Stewart was standing in his home on Christmas eve, James Stewart thought he was wiped out, the evil corporate banker having, unfortunately, purloined his big investment, but was rescued by thousands of little investors who came in to save their friend and their neighborhood bank. The free-wheeling go-go bankers of the 1980's have effectively purloined a much bigger sum and no deregulation is going to rescue millions of taxpayers from paying the price for their excesses.

The reality of the matter is that title IV is the one thing that protects the U.S. taxpayers from disasters like those of the savings and loan industry, ensures real regulation, and guarantees that all of us do not have to explain away today's votes like we have been explaining away the votes on savings and loans for the past 10 years. Gonzalez-Dingell is the only thing keeping this bill from becoming another Garn-St Germain.

Save title IV, protect the taxpayers, and for once, let us do the right thing.

Mr. LENT. Mr. Chairman, here to save Jimmy Stewart, I am pleased to yield 2½ minutes to the gentleman from Ohio [Mr. WYLIE], the ranking member of the Committee on Banking, Finance and Urban Affairs.

Mr. WYLIE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I have stated a little earlier that I was disappointed that the Rules Committee made in order the Dingell-Gonzalez title IV provision in this bill and did not in effect make title IV as it came out of the Banking Committee the original text.

I would point out that none of the members of the Committee on Banking, Finance and Urban Affairs or of the Committee on Energy and Commerce had any input in the legislation except for two, and those were the two chairmen. I have great admiration and respect for both chairmen, but I think that nearly one-fourth of the House considered H.R. 6 in the Banking Committee and in the Committee on Energy and Commerce.

We had a long debate on that provision in our bill, which would impose greater restrictions on allowing banks to become involved in investment banking and in insurance. The gentleman from Ohio indicated that if we go back and strike this title IV, that we are back in the savings and loan situation all over again.

I respectfully disagree. In the case of the savings and loans, they were not required to have 3 percent capital, which these banks are. Also, in the case of the savings and loan industry, through State chartering mechanisms, they were allowed to invest much of their capital in enterprises which banks cannot invest in, like junk bonds, direct investments in real estate, and so forth. So there is no analogy, I submit, to the savings and loan situation and Charles Keating. That is a scare tactic, at best.

I am suggesting that we strike title IV as we now know it and go with the amendment that will be offered by Mr. RINALDO and Mr. FRANK, which will allow commercial enterprises to buy the failing banks. I think by this process that we can save the taxpayers a lot of money.

I might point out that the commercial enterprise has to buy the banks, warts and all. It has to buy good assets as well as bad assets, and that will save the taxpayers a lot of money in the long run.

Again I thank the gentleman for yielding.

Mr. MARKEY. Mr. Chairman, could I once again inquire as to how much time is remaining?

The CHAIRMAN pro tempore. (Mr. HAYES of Illinois). The gentleman from Massachusetts [Mr. MARKEY] has 4 minutes remaining and the gentleman from New York [Mr. LENT] has 4 minutes remaining.

Mr. MARKEY. Mr. Chairman, it is my understanding that will be the prerogative of the majority to complete debate on this issue.

The CHAIRMAN pro tempore. The gentleman is correct.

Mr. MARKEY. I reserve the balance of my time, Mr. Chairman.

Mr. LENT. Mr. Chairman, I yield 4 minutes to the gentleman from Virginia [Mr. BLILEY], a member of the Committee on Energy and Commerce.

Mr. BLILEY. Mr. Chairman, I thank the gentleman for yielding the time.

First let me say to my colleagues who are not here on the floor, Mr. Chairman, that the process we have today is simply outrageous. We have has several committees, many Members on both sides of the aisle put many hours into working on this legislation. And then we have two Members, two chairmen go off in a room and make a compromise.

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There is nothing wrong with that, but then to take that vehicle and make that the underlying text rather than the product that had been the work of the Committee on Banking, Finance and Urban Affairs for a number of years, that is wrong.

Now, I would remind my colleagues also that in the mid-1980's, the then Reagan administration came with a plan to infuse capital into the savings and loan FSLIC, and we had a lot of discussion. They asked for $15 billion, and we had an onrush to Washington of representatives of the S&L industry saying, "Oh, no, we do not need that much. They are going to put too heavy a burden on us," and we only did $5 billion.

Well, deja vu, here we are again, and let us not second-guess. We need to help our banking industry. We need to make it more competitive.

As my good friend, the gentleman from Georgia, said, it is like the Fram ad, "You can pay me now or you can pay me later."

We can either allow the banks to raise their own capital or, in a short, very short, time, we will be voting the taxpayers' money.

Mr. Chairman, we need also to seriously consider and to vote for the Rinaldo-Frank amendment. We need to allow commercial enterprises to put up their capital, not go to the taxpayers to put up their tax dollars to rescue banks if the need comes. That is very important.

Mr. NEAL of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. BLILEY. I am happy to yield to the gentleman from North Carolina.

Mr. NEAL of North Carolina. Mr. Chairman, I thank the gentleman for yielding.

It was said earlier, a few minutes ago, that under this title IV substitute that banks could still offer mutual funds. I believe there is a little kicker in that, though, and that is that, as I understand the provision, and I wonder if the gentleman, the chairman of the subcommittee, would listen and tell me if I am right or not, that they could not offer a mutual fund that had a stock in it that the bank had ever loaned any money to. So let us say it was a mutual fund like the S&P 500, had 500 stocks, and the only way they could offer that mutual fund would be to make sure that in none of those 500 stocks was there any loan, so obviously it would make it totally impossible, so that is giving with one hand and taking it away with the other.

With Government securities and with each transaction, there has to be a certification written in hand that the person knows it is not a bank deposit. So, again, it is giving with one hand and taking away with the other.

You could not possibly do that as a practical matter. So all of this is just sort of a little joke.

Mr. BLILEY. Reclaiming my time, I thank the gentleman.

The gentleman has hit on a very important part. This bill, as it currently exists, rolls the clock back. It does not help the banks. It hurts the banks, and all you are doing is putting in more capital, and, believe me, ladies and gentlemen, colleagues, we will be back, and the bill will be considerably higher.

Mr. MARKEY. Mr. Chairman, I yield myself 4 minutes, the remainder of my time.

Mr. Chairman, let us lay out what this debate is all about. For the last several months, it was characterized as a jurisdictional debate between the Committee on Banking, Finance and Urban Affairs and the Committee on Energy and Commerce. That fight no longer exists.

The chairman of the Committee on Banking, Finance and Urban Affairs and the chairman of the Committee on Energy and Commerce have resolved their difference. There is no dispute between the two committees on jurisdiction.

The fight is now over substance, a historic debate now, between the forces of deregulation and the forces of prudential regulation that allows for the banking industry to engage in activities which are legitimate and an important part of the economic fabric of our country, but while protecting the depositors, the investors, and the taxpayers of our country.

In 1982 Garn-St Germain passed this body, a historic mistake. It allowed for the deregulation of the S&L industry with no supervision, with no firewalls, with no protection for taxpayers, and in the 1990's, we are going to pay $500 billion of taxpayers' money to bail that problem out.

Do you wonder why we are not going to have any education programs in the 1990's, Head Start, health care, transportation? It is because $500 billion that should have gone to the young people in our country, to the elderly, to the working people in our country is going to go to bail out the S&L industry, and now we are asked to deregulate the banking industry, not that it has not already been deregulated.

Because instead of coming to us and asking us for a Garn-St Germain for the banking industry as they did for the S&L's, they went to the Federal Reserve, they went to the Federal court, they went to the States, and they took down Glass-Steagall so that the banks could get out into these activities but without an accompanying set of safeguards, of protections, of firewalls to protect the depositors, to protect the taxpayers.

Today now we are asked here on the floor to vote a $70 billion line of credit from the Federal Government, from the taxpayers, to the commercial bankers.

We fund all of breast cancer with $77 million. One in nine women in this country is going to be hit with the tragedy of breast cancer; 1 in 4, the projections are, by the year 2000; $77 million for the women of this country. For the bankers $70 billion; $500 billion for the S&L industry.

This is a historic moment. We do not want to tie the hands of the banks. We want them to go out there and to be competitive, but we want to ensure that we do not repeat the 1980's.

The discretionary spending that was supposed to be there for the working-class people in our country is gone. It is going to the bankers. It is going to the S&L's.

Let us make sure, for God sakes, in the 1990's, that we do not allow them to go out and gamble away our future of the next decade as they did our last. That is what this historic debate is all about. That is what this divide is all about.

It is not jurisdiction any longer. It is substance. It is historic.

I urge all of my colleagues, as they view this Dingell-Gonzalez safeguards protection, to understand that this will be the historic moment. This will be the Garn-St Germain vote of the 1990's. This is what will be looked back to as we decide year after year how many more billions we will have to give the commercial banks.

Mr. LAFALCE. Mr. Chairman, our financial services are in serious trouble. Banks are failing at record rates, putting the bank insurance fund under serious pressure and necessitating a substantial recapitalization. Technology has changed the shape of financial products and services, leaving banks behind in a world where domestic and foreign bank and nonbank competitors offer a fuller and more desired array of financial products to individual and corporate consumers. As a result, the banking industry holds an ever smaller portion of this country's financial assets. Yet the industry is underwritten by a deposit insurance guarantee that ultimately can make taxpayers culpable for industry failures. The result is an industry under siege and the American taxpayer at risk.

Moreover, we too often forget the linkage between the lending the community relies upon for its growth and the health of the industry which provides it. The primary role of banks is to keep the flow of credit going to our local communities—for housing, for innovation, for corporate expansion, for consumer lending, for a full array of parties and products and projects that keep the economy moving. If banks are not profitable, if they are not sound, if they are under stress, they cannot lend—they must simply strike a defensive position and do their utmost to safeguard their resources.

That posture is bad for the industry, for the community, and for the country. Lending necessarily suffers and credit for businesses and consumers dries up. We have already seen a significant tightening of credit. If we do not respond intelligently to problems in our financial services sector, the situation could well worsen. The current severe credit crunch will not abate unless the banking industry is given new competitive opportunities.

Ultimately, renewed economic growth in this country will depend substantially on the strength and quality of our financial services sector. Reform of that sector is critical if that growth is to be achieved. Congress must choose a solution to the problems of the commercial banking sector that will put the banking industry—and the economy—back on its feet.

The bill passed by the House Banking Committee would do that. While the Gonzalez-Dingell compromise also takes some important steps toward serious structural reform—most notably the repeal of Glass-Steagall—that compromise has some serious flaws that must be corrected.

The U.S. banking industry badly needs new capital. That capital can only come from a limited number of sources, and if insufficient capital is forthcoming, the taxpayer will have to make up the difference. The Banking Committee vehicle would permit commercial firm investment; the compromise would not. By totally precluding commercial firms from investing in the banking industry we are eliminating the largest potential source of capital in this country. Surely it is preferable to have domestic commercial firms invest in the U.S. banking industry with appropriate controls than to rely on foreign investment or taxpayer money.

Changes in the financial services business have crippled the competitiveness of American banks. A task force which I chaired on the international competitiveness of U.S. financial institutions found that U.S. banks are no longer global players and are increasingly being outpaced by foreign competition at home as well as abroad. There are no longer American banks among the top 20 global players. Yet the compromise would prohibit U.S. banks from adapting to new competitive challenges.

Although the Banking Committee bill would repeal the outmoded and anticompetitive Glass-Steagall Act, the compromise would impose unnecessary and burdensome controls on bank securities affiliates. Some of these controls address legitimate safety and soundness concerns. But others are no more than cross-marketing restrictions that arbitrarily disadvantage banks and their affiliates.

Neither the industry nor the American taxpayer can afford a reform that will in fact place new restrictions on the banking industry while giving it insufficient opportunities to improve competitiveness and profitability. Nor can we afford to put off a serious effort at structural reform. Whatever its flaws, the Dingell-Gonzalez compromise, like the Banking Committee bill, has taken a historic step—the repeal of the outdated Glass-Steagall Act. This reflects a general appreciation of the fact that the banking industry as we have traditionally known it is a dinosaur and must change to survive. This is an extremely significant change and we should not lose the opportunity it affords to press for progressive reform.

There are those who are pressing for Congress to drop entirely any effort to move comprehensive reform in the short term and focus narrowly on a recapitalization of the bank insurance fund. Recapitalizing the fund without otherwise making provision for the development of a safer and more profitable industry will only be throwing good money after bad.

We cannot fix the banking industry's problems by simply throwing money at them. If we try to do so, I believe the American taxpayer may ultimately be at risk for yet another bailout.

Mr. HOLLOWAY. Mr. Chairman, I rise today to say that banking reform legislation is very needed. However, I have mixed feelings about the different parts of this complex bill. I am convinced that whatever the outcome of this bill we must ensure that American banks bear the cost of their own recapitalization. This bill would do just that. We simply cannot risk another savings and loan crash.

Further, I feel very strongly about the failed-or-failing amendment which would allow commercial firms to acquire a bank that has failed or is in danger of failing.

It just makes sense to let a solid, commercial parent absorb the troubled bank. In doing so, the commercial firm must purchase all the assets of the failed banks. The firm must also acquire the bank with no assistance from the FDIC which lowers the cost to the taxpayer. Finally, the bank may not extend any credit or purchase any assets from a commercial affiliate.

Mr. Chairman, we have an obligation to protect the American taxpayer. This is a perfect opportunity to do just that by allowing the financial risk to be assumed by someone other than the taxpayer.

Finally, I am in favor of the option amendment which would permit interstate branching only in States that specifically allow it.

Mr. BOUCHER. Mr. Chairman, as reported by the Committee on Energy and Commerce, H.R. 6 added a new section 4(n)(4)(A)(viii) to the Bank Holding Company Act that generally prohibited a bank from extending credit to the issuer of any security being underwritten by its securities affiliate until 90 days after the end of the underwriting period. Section 4(n)(4)(G), however, created certain exceptions to this prohibition. In order to qualify for one of these exceptions, any credit extended would have to comply with regulations to be prescribed by the Federal Reserve Board that would be designed to "prevent any insured depository institution from engaging in any coercive or unfair practice to induce any person to use the underwriting, distributing, or placing services of a securities affiliate." If an insured depository institution were a significant participant in a credit facility, and a securites affiliate were a significant participant in the underwriting, the securities affiliate and the issuer would have to certify to the SEC that "the issuer had not been subjected, as an inducement to such issuer's election to use the underwriting or placement services of such securities affiliate, to any coercive or unfair practice or conditioning of such facility in violation of the regulations—to be prescribed by the Board." Section 4(n)(4)(A)(viii), and the exceptions in section 4(n)(4)(G), have now been adopted as part of title IV of H.R. 6.

The Energy and Commerce Committee's report on H.R. 6 states that:

> The purpose of section 4(n)(4)(A)(viii) is to remove a conflict of interest that could lead an insured depository institution either to assume large credit risks or to impose a tying arrangement on borrowers for the benefit of its securities affiliate. This conflict arises from the availability of insured deposits to support the underwriting activities of the securities affiliate. A depository institution could condition the availability of credit on the borrower's use of the securities affiliate.

This description of the purpose of section 4(n)(4)(A)(viii) is consistent with my understanding of the provision. In my view, the exceptions to the general prohibition should be designed to ensure that any excepted transactions are not inconsistent with this basic purpose. Simply put, the terms of the exceptions should ensure that banks are not using excepted transactions to impose tying arrangements on borrowers for the benefit of securities affiliates, or as the Energy and Commerce Committee report suggests in another place, otherwise to "coerce potential borrowers into using the underwriting services of a securities affiliate."

Certain language in the Energy and Commerce Committee report arguably departs from this view and conditions the availability of the exception on satisfaction of a standard that is considerably more stringent than a traditional tying standard, or any standard suggested by the commonly understood meaning of coercion. In particular, the Energy and Commerce Committee report suggests that impermissible coercion could result from "any communication that might reasonably be construed as an indication to a borrower—or, by the same token, to an issuer of securities underwritten by a securities affiliate—that the decision by the insured depository institution to provide or continue to provide a credit facility will be influenced by the borrower's—or issuer's—willingness to use the services of the securities affiliate * * *."

A traditional tying standard, as reflected in section 106 of the Bank Holding Company Act Amendments of 1970, makes the existence of a condition or requirement that a borrower obtain some additional service from a bank or affiliate a predicate for any violation. The language in the Energy and Commerce Committee report on coercion suggests a standard much broader, and more stringent, than a condition or requirement standard. Moreover, Webster's defines "coercion" as "restrain[ing] or dominat[ing] by force;" "compell[ing] to an act or choice;" or "enforc[ing] or bring[ing] about by force or threat." Those definitions suggest a standard that is a far cry from any "communication that might reasonably be construed as an indication * * * that the [bank's] decision * * * will be influenced by the borrower's (or issuer's) willingness to use the services of the securities affiliate * * *."

A standard for coercion as broad and as vague as the one suggested in the Energy and Commerce Committee report could have two unfortunate effects. It could chill communications between banks and their customers, and it could narrow the exception to the point of irrelevance. I believe that either of these effects would be undesirable from the perspective of both banking organizations and borrower/issuers. In my view, Federal Reserve Board should focus on the basic antitying purpose of section 4(n)(4)(A)(viii) in adopting regulations to implement the exceptions. At a minimum, the Federal Reserve Board should not adopt the Energy and Commerce Committee report's overbroad and vague standard for coercion and, instead, should focus on the commonly understood meaning of the term. Especially under circumstances in which we will be asking issuers—and securities affiliates—to certify that the Board's regulations have not been violated, I think it is crucial that the standards be clear and easy to apply.

Mr. HOUGHTON. Mr. Chairman, there are a variety of issues being woven in and out of this debate: Recapitalization, better supervision, and more disciplined deposit insurance. Now we all have different views on them.

But there is one absolute common goal shared by all: To strengthen the banking system. This to me means not to intellectualize as to what might be.

Here is what we face. One of every eight banks is losing money. Profits are down. We know what's happening with the bank insurance fund.

So in brief we have to decide what is reality, not what we might like it to be. Two things are needed: An infusion of new capital, and how do we do that? We allow the weak to join the strong.

The second is we allow financial systems to meet head-on banks from other countries—not located in London or Tokyo but in New York and Los Angeles. We want our banks to win against theirs. It's as simple as that.

The Dingell-Gonzalez language stops that process in its tracks. The system is dealt a punishing blow.

So why do this—when our objective is to help, not hurt. This is the real world. Defeat the Gonzalez-Dingell language.

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The CHAIRMAN pro tempore (Mr. HAYES of Illinois). Pursuant to House Resolution 266, the amendment in the nature of a substitute consisting of the text entitled "Committee Print, October 30, 1991," is considered as an original bill for the purpose of amendment and is considered as read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 6

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Financial Institutions Safety and Consumer Choice Act of 1991".

(b) TABLE OF CONTENTS.—

TITLE I—SAFETY AND SOUNDNESS

SEC. 100. SHORT TITLE.

This title may be cited as the "Federal Deposit Insurance Corporation Improvement Act of 1991".

Subtitle A—Deposit Insurance Funds

SEC. 101. FUNDING FOR THE FEDERAL DEPOSIT INSURANCE FUNDS.

Section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)) is amended by striking "$5,000,000,000" and inserting "$30,000,000,000".

SEC. 102. LIMITATION ON OUTSTANDING BORROWING.

(a) IN GENERAL.—Section 15(c) of the Federal Deposit Insurance Act (12 U.S.C. 1825(c)) is amended by striking paragraphs (5) and (6) and inserting the following new paragraphs:

"(5) MAXIMUM AMOUNT LIMITATION ON OUTSTANDING OBLIGATIONS.—Notwithstanding any other provisions of this Act, the aggregate amount of obligations of the Bank Insurance Fund or Savings Association Insurance Fund, respectively, outstanding at any time may not exceed the sum of—

"(A) the amount of cash or the equivalent of cash held by the Bank Insurance Fund or Savings Association Insurance Fund, respectively;

"(B) the amount which is equal to 90 percent of the Corporation's estimate of the fair market value of assets held by the Bank Insurance Fund or the Savings Association Insurance Fund, respectively, other than assets described in subparagraph (A); and

"(C) the total of the amounts authorized to be borrowed from the Secretary of the Treasury pursuant to section 14(a).

"(6) OBLIGATION DEFINED.—For purposes of paragraph (5), the term 'obligation' includes—

"(A) any guarantee issued by the Corporation;

"(B) any amount borrowed pursuant to section 14; and

"(C) any other obligation for which the Corporation has a direct or contingent liability to pay any amount.".

(b) GAO REPORTS.—

(1) QUARTERLY REPORTING.—The Comptroller General of the United States shall submit a report each calendar quarter on the Federal Deposit Insurance Corporation's compliance with section 15(c)(5) of the Federal Deposit Insurance Act for the preceding quarter to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) ANALYSES TO BE INCLUDED.—Each report submitted under paragraph (1) shall include—

(A) an analysis of the performance of the Federal Deposit Insurance Corporation in meeting any repayment schedule under section 14(c) of the Federal Deposit Insurance Act (as added by section 103 of this Act); and

(B) an analysis of the actual recovery on asset sales compared to the estimated fair market value of the assets as determined for the purposes of section 15(c)(5)(B) of such Act.

(c) TECHNICAL AND CONFORMING AMENDMENT.—Section 15(c) of the Federal Deposit Insurance Act (12 U.S.C. 1825(c)) is amended by striking paragraph (7).

SEC. 103. REPAYMENT SCHEDULE.

(a) IN GENERAL.—Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended by adding at the end the following new subsection:

"(c) REPAYMENT SCHEDULES REQUIRED FOR ANY BORROWING.—

"(1) IN GENERAL.—No amount may be provided by the Secretary of the Treasury to the Corporation under subsection (a) unless an agreement is in effect between the Secretary and the Corporation which—

"(A) provides a schedule for the repayment of the outstanding amount of any borrowing under such subsection; and

"(B) demonstrates that income to the Corporation from assessments under this Act will be sufficient to amortize the outstanding balance within the period established in the repayment schedule and pay the interest accruing on such balance.

"(2) CONSULTATION WITH AND REPORT TO CONGRESS.—The Secretary of the Treasury and the Corporation shall—

"(A) consult with the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the terms of any repayment schedule agreement described in paragraph (1) relating to repayment, including terms relating to any emergency special assessment under section 7(b)(7); and

"(B) submit a copy of each repayment schedule agreement entered into under paragraph (1) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate before the end of the 30-day period beginning on the date any amount is provided by the Secretary of the Treasury to the Corporation under subsection (a).".

(b) EMERGENCY SPECIAL ASSESSMENTS.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively, and by inserting after paragraph (6) the following new paragraph:

"(7) EMERGENCY SPECIAL ASSESSMENTS.—In addition to the assessments imposed on insured depository institutions under other provisions of this subsection, the Corporation may impose 1 or more special assessments on insured depository institutions in an amount determined by the Corporation if the amount of any such assessment—

"(A) is necessary—

"(i) to provide sufficient assessment income to repay amounts borrowed from the Secretary of the Treasury under section 14(a) in accordance with the repayment schedule in effect under section 14(c) during the period with respect to which such assessment is imposed;

"(ii) to provide sufficient assessment income to repay obligations issued to and other amounts borrowed from Bank Insurance Fund members under section 14(d); or

"(iii) for any other purpose the Corporation may deem necessary; and

"(B) is allocated between Bank Insurance Fund members and Savings Association Insurance Fund members in amounts which reflect the degree to which the proceeds of the amounts borrowed are to be used for the benefit of the respective insurance funds.".

SEC. 104. BORROWING FOR BIF FROM BIF MEMBERS.

Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended by inserting after subsection (c) (as added by section 103 of this subtitle) the following new subsection:

"(d) BORROWING FOR BIF FROM BIF MEMBERS.—

"(1) BORROWING AUTHORITY.—The Corporation may issue obligations to Bank Insurance Fund members, and may borrow from Bank Insurance Fund members and give security for any amount borrowed, and may pay interest on (and any redemption premium with respect to) any such obligation or amount to the extent—

"(A) the proceeds of any such obligation or amount are used by the Corporation solely for purposes of carrying out the Corporation's functions with respect to the Bank Insurance Fund; and

"(B) the terms of the obligation or instrument limit the liability of the Corporation or the Bank Insurance Fund for the payment of interest and the repayment of principal to the amount which is equal to the amount of assessment income received by the Fund from assessments under section 7.

"(2) LIMITATIONS ON BORROWING.—

"(A) APPLICABILITY OF PUBLIC DEBT LIMIT.—For purposes of the public debt limit established in section 3101(b) of title 31, United States Code, any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall be considered to be an obligation to which such limit applies.

"(B) APPLICABILITY OF FDIC BORROWING LIMIT.—For purposes of the dollar amount limitation established in section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)), any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall be considered to be an amount borrowed from the Treasury under such section.

"(C) INTEREST RATE LIMIT.—The rate of interest payable in connection with any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall not exceed an amount determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

"(D) OBLIGATIONS TO BE HELD ONLY BY BIF MEMBERS.—The terms of any obligation issued by the Corporation under paragraph (1) shall provide that the obligation will be valid only if held by a Bank Insurance Fund Member.

"(3) LIABILITY OF BIF.—Any obligation issued or amount borrowed under paragraph (1) shall be a liability of the Bank Insurance Fund.

"(4) TERMS AND CONDITIONS.—Subject to paragraphs (1) and (2), the Corporation shall establish the terms and conditions for obligations issued or amounts borrowed under paragraph (1), including interest rates and terms to maturity.

"(5) INVESTMENT BY BIF MEMBERS.—

"(A) AUTHORITY TO INVEST.—Subject to subparagraph (B) and notwithstanding any other provision of Federal law or the law of any State, any Bank Insurance Fund member may purchase and hold for investment any obligation issued by the Corporation under paragraph (1) without limitation, other than any limitation the appropriate Federal banking agency may impose specifically with respect to such obligations.

"(B) INVESTMENT ONLY FROM CAPITAL AND RETAINED EARNINGS.—Any Bank Insurance Fund member may purchase obligations or make loans to the Corporation under paragraph (1) only to the extent the purchase money or the money loaned is derived from the member's capital or retained earnings.

"(6) ACCOUNTING TREATMENT.—In accounting for any investment in an obligation purchased from, or any loan made to, the Corporation for purposes of determining compliance with any capital standard and preparing any report required pursuant to section 7(a), the amount of such investment or loan shall be treated as an asset.".

Subtitle B—Supervisory Reforms

SEC. 111. IMPROVED EXAMINATIONS.

(a) ANNUAL EXAMINATIONS.—

(1) IN GENERAL.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by inserting after subsection (c) the following new subsection:

"(d) ANNUAL ON-SITE EXAMINATIONS OF ALL INSURED DEPOSITORY INSTITUTIONS REQUIRED.—

"(1) IN GENERAL.—Each insured depository institution (other than an institution for which a conservator or receiver has been appointed) shall be examined at least once during each 12-month period (beginning on the date on which the most recent examination of such institution ended) by the appropriate Federal banking agency in an on-site examination unless the institution has been examined by the Corporation during such period in an on-site examination.

"(2) ACCEPTANCE OF STATE ON-SITE EXAMINATIONS.—Notwithstanding paragraph (1), the appropriate Federal banking agency or the Corporation may accept an examination report on any insured depository institution which is based on an on-site examination by the appropriate State bank supervisor.".

(2) EFFECTIVE DATE.—Section 10(d) of the Federal Deposit Insurance Act (as added by paragraph (1) of this subsection) shall take effect at the end of the 1-year period beginning on the date of the enactment of this Act.

(3) TRANSITION RULE.—During the period beginning after the end of the period described in paragraph (2) and ending on December 31, 1993, section 10(d) of the Federal Deposit Insurance Act shall be applied by substituting "18-month" for "12-month" with respect to any insured depository institution other than—

(A) an institution which received a composite CAMEL rating of 3, 4, or 5 under the

Uniform Financial Institutions Rating System (or a comparable rating under an equivalent rating system) during the most recent examination of such institution; or

(B) an institution for which a notice or application has been received by the appropriate Federal banking agency under section 7(j) or 18(c) of the Federal Deposit Insurance Act during the 12-month period beginning on the date on which the most recent examination ended.

(b) EXAMINATION IMPROVEMENT PROGRAM.—

(1) IN GENERAL.—The appropriate Federal banking agencies, acting through the Federal Financial Institutions Examination Council, shall each establish a comparable examination improvement program which meets the requirements of paragraph (2).

(2) REQUIREMENTS.—An examination improvement program meets the requirements of this paragraph if, under the program, the agency is required—

(A) to periodically review the organization and training of the staff of the agency who are responsible for conducting examinations of insured depository institutions and to make such improvements as the agency determines to be appropriate to ensure frequent, objective, and thorough examinations of such institutions; and

(B) to increase the number of examiners, supervisors, and other individuals employed by the agency in connection with conducting or supervising examinations of insured depository institutions to the extent necessary to ensure frequent, objective, and thorough examinations of such institutions.

(c) DEFINITION RELATING TO STATE BANK SUPERVISORS.—

(1) IN GENERAL.—Section 3(r) of the Federal Deposit Insurance Act (12 U.S.C. 1813(r)) is amended to read as follows:

"(r) STATE BANK SUPERVISOR.—

"(1) IN GENERAL.—The term 'State bank supervisor' means any officer, agency, or other entity of any State which has primary regulatory authority over State banks or State savings associations in such State.

"(2) INTERSTATE APPLICATION.—The State bank supervisors of more than 1 State may be the appropriate State bank supervisor for any insured depository institution.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) is amended to read as follows:

"(s) DEFINITIONS RELATING TO FOREIGN BANKS AND BRANCHES.—

"(1) FOREIGN BANK.—The term 'foreign bank' has the meaning given to such term by section 1(b)(7) of the International Banking Act of 1978.

"(2) FEDERAL BRANCH.—The term 'Federal branch' has the meaning given to such term by section 1(b)(6) of the International Banking Act of 1978.

"(3) INSURED BRANCH.—The term 'insured branch' means any branch (as defined in section 1(b)(3) of the International Banking Act of 1978) of a foreign bank any deposits in which are insured pursuant to this Act.".

SEC. 112. INDEPENDENT ANNUAL AUDITS OF INSURED DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 36. EARLY IDENTIFICATION OF NEEDED IMPROVEMENTS IN FINANCIAL MANAGEMENT.

"(a) ANNUAL REPORT ON FINANCIAL CONDITION AND MANAGEMENT.—

"(1) REPORT REQUIRED.—Each insured depository institution shall submit an annual report to the Corporation, the appropriate Federal banking agency, and any appropriate State bank supervisor (including any State bank supervisor of a host State).

"(2) CONTENTS OF REPORT.—Any annual report required under paragraph (1) shall contain—

"(A) the information required to be provided by—

"(i) the institution's management under subsection (b); and

"(ii) an independent public accountant under subsections (c) and (d); and

"(B) such other information as the Corporation and the appropriate Federal banking agency may determine to be necessary to assess the financial condition and management of the institution.

"(3) PUBLIC AVAILABILITY.—Any annual report required under paragraph (1) shall be available for public inspection.

"(b) MANAGEMENT RESPONSIBILITY FOR FINANCIAL STATEMENTS AND INTERNAL CONTROLS.—Each insured depository institution shall prepare—

"(1) annual financial statements in accordance with generally accepted accounting principles and such other disclosure requirements as the Corporation and the appropriate Federal banking agency may prescribe; and

"(2) a report signed by the chief executive officer and the chief accounting or financial officer of the institution which contains—

"(A) a statement of the management's responsibilities for—

"(i) preparing financial statements;

"(ii) establishing and maintaining an adequate internal control structure and procedures for financial reporting; and

"(iii) complying with the laws and regulations relating to safety and soundness which are designated by the Corporation or the appropriate Federal banking agency; and

"(B) an assessment, as of the end of the institution's most recent fiscal year, of—

"(i) the effectiveness of such internal control structure and procedures; and

"(ii) the institution's compliance with the laws and regulations relating to safety and soundness which are designated by the Corporation and the appropriate Federal banking agency.

"(c) INTERNAL CONTROL EVALUATION AND REPORTING REQUIREMENTS FOR INDEPENDENT PUBLIC ACCOUNTANTS.—

"(1) IN GENERAL.—With respect to any internal control report required by subsection (b)(2) of any institution, the institution's independent public accountant shall attest to, and report separately on, the assertions of the institution's management contained in such report.

"(2) ATTESTATION REQUIREMENTS.—Any attestation pursuant to paragraph (1) shall be made in accordance with generally accepted standards for attestation engagements.

"(d) ANNUAL INDEPENDENT AUDITS OF FINANCIAL STATEMENTS.—

"(1) AUDITS REQUIRED.—The Corporation, in consultation with the appropriate Federal banking agencies, shall prescribe regulations requiring that each insured depository institution shall have an annual independent audit made of the institution's financial statements by an independent public accountant in accordance with generally accepted auditing standards and section 37.

"(2) SCOPE OF AUDIT.—In connection with any audit under this subsection, the independent public accountant shall determine and report whether the financial statements of the institution—

"(A) are presented fairly in accordance with generally accepted accounting principles; and

"(B) comply with such other disclosure requirements as the Corporation and the appropriate Federal banking agency may prescribe.

"(3) REQUIREMENTS FOR INSURED SUBSIDIARIES OF HOLDING COMPANIES.—The requirements for an independent audit under subsection (d) may be satisfied for insured depository institutions that are subsidiaries of a holding company by an independent audit of the holding company.

"(e) DETECTING AND REPORTING VIOLATIONS OF LAWS AND REGULATIONS.—

"(1) IN GENERAL.—An independent public accountant shall apply procedures agreed upon by the Corporation to objectively determine the extent of the compliance of any insured depository institution or depository institution holding company with laws and regulations designated by the Corporation, in consultation with the appropriate Federal banking agencies.

"(2) ATTESTATION REQUIREMENTS.—Any attestation pursuant to paragraph (1) shall be made in accordance with generally accepted standards for attestation engagements.

"(f) FORM AND CONTENT OF REPORTS AND AUDITING STANDARDS.—

"(1) IN GENERAL.—The scope of each report by an independent public accountant pursuant to this section, and the procedures followed in preparing such report, shall meet or exceed the scope and procedures required by generally accepted auditing standards and other applicable standards recognized by the Corporation.

"(2) CONSULTATION.—The Corporation shall consult with the other appropriate Federal banking agencies in implementing this subsection.

"(g) IMPROVED ACCOUNTABILITY.—

"(1) INDEPENDENT AUDIT COMMITTEE.—

"(A) ESTABLISHMENT.—Each insured depository institution (to which this section applies) shall have an independent audit committee entirely made up of outside directors who are independent of management of the institution, and who satisfy any specific requirements the Corporation may establish.

"(B) DUTIES.—An independent audit committee's duties shall include reviewing with management and the independent public accountant the basis for the reports issued under subsections (b)(2), (c), and (d).

"(C) CRITERIA APPLICABLE TO COMMITTEES OF LARGE INSURED DEPOSITORY INSTITUTIONS.—In the case of each insured depository institution which the Corporation determines to be a large institution, the audit committee required by subparagraph (A) shall—

"(i) include members with banking or related financial management expertise;

"(ii) have access to the committee's own outside counsel; and

"(iii) not include any large customers of the institution.

"(2) REVIEW OF QUARTERLY REPORTS OF LARGE INSURED DEPOSITORY INSTITUTIONS.—

"(A) IN GENERAL.—In the case of any insured depository institution which the Corporation has determined to be a large institution, the Corporation may require the independent public accountant retained by such institution to perform reviews of the institution's quarterly financial reports in accordance with procedures agreed upon by the Corporation.

"(B) REPORT TO AUDIT COMMITTEE.—The independent public accountant referred to in subparagraph (A) shall provide the audit committee of the insured depository institution with reports on the reviews under such subparagraph and the audit committee shall provide such reports to the Corporation, any appropriate Federal banking agency, and any appropriate State bank supervisor.

"(C) LIMITATION ON NOTICE.—Reports provided under subparagraph (B) shall be only for the information and use of the insured depository institution, the Corporation, any appropriate Federal banking agency, and any State bank supervisor which received the report.

"(3) QUALIFICATIONS OF INDEPENDENT PUBLIC ACCOUNTANTS.—

"(A) IN GENERAL.—All audit services required by this section shall be performed only by an independent public accountant who—

"(i) has agreed to provide related working papers, policies, and procedures to the Corporation, an appropriate Federal banking agency, and any State bank supervisor, if requested; and

"(ii) has received a peer review that meets guidelines acceptable to the Corporation.

"(B) REPORTS ON PEER REVIEWS.—Reports on peer reviews shall be filed with the Corporation and made available for public inspection.

"(4) ENFORCEMENT ACTIONS.—

"(A) IN GENERAL.—In addition to any authority contained in section 8, the Corporation or an appropriate Federal banking agency may remove, suspend, or bar an independent public accountant, upon a showing of good cause, from performing audit services required by this section.

"(B) JOINT RULEMAKING.—The appropriate Federal banking agencies shall jointly issue rules of practice to implement this paragraph.

"(5) NOTICE BY ACCOUNTANT OF TERMINATION OF SERVICES.—Any independent public accountant performing an audit under this section who subsequently ceases to be the accountant for the institution shall promptly notify the Corporation pursuant to such rules as the Corporation shall prescribe.

"(h) EXCHANGE OF REPORTS AND INFORMATION.—

"(1) REPORT TO THE INDEPENDENT AUDITOR.—

"(A) IN GENERAL.—Each insured depository institution which has engaged the services of an independent auditor to audit such institution shall transmit to the auditor a copy of the most recent report of condition made by the institution (pursuant to this Act or any other provision of law) and a copy of the most recent report of examination received by the institution.

"(B) ADDITIONAL INFORMATION.—In addition to the copies of the reports required to be provided under paragraph (1), each insured depository institution shall provide the auditor with—

"(i) a copy of any supervisory memorandum of understanding with such institution and any written agreement between such institution and any appropriate Federal banking agency or any appropriate State bank supervisor which is in effect during the period covered by the audit; and

"(ii) a report of—

"(I) any action initiated or taken by the appropriate Federal banking agency or the Corporation during such period under subsection (a), (b), (c), (e), (g), (i), (s), or (t) of section 8;

"(II) any action taken by any appropriate State bank supervisor under State law which is similar to any action referred to in subclause (I); or

"(III) any assessment of any civil money penalty under any other provision of law with respect to the institution or any institution-affiliated party.

"(2) REPORTS TO BANKING AGENCIES.—

"(A) INDEPENDENT AUDITOR REPORTS.—Each insured depository institution shall provide to the Corporation, any appropriate Federal banking agency, and any appropriate State bank supervisor, a copy of each audit report and any qualification to such report, any management letter, and any other report within 15 days of receipt of any such report, qualification, or letter from the institution's independent auditors.

"(B) NOTICE OF CHANGE OF AUDITOR.—Each insured depository institution shall provide written notification to the Corporation, the appropriate Federal banking agency, and any appropriate State bank supervisor of the resignation or dismissal of the institution's independent auditor or the engagement of a new independent auditor by the institution, including a statement of the reasons for such change within 15 calendar days of the occurrence of the event.

"(i) REQUIREMENTS FOR INSURED SUBSIDIARIES OF HOLDING COMPANIES.—Except with respect to any audit requirements established under or pursuant to subsection (d), the requirements of this section may be satisfied for insured depository institutions that are subsidiaries of a holding company, if—

"(1) services and functions comparable to those required under this section are provided at the holding company level; and

"(2) either—

"(A) the institution has total assets, as of the beginning of such fiscal year, of less than $5,000,000,000; or

"(B) the institution—

"(i) has total assets, as of the beginning of such fiscal year, of more than $5,000,000,000 and less than $9,000,000,000; and

"(ii) has a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution by the Corporation or the appropriate Federal banking agency.

"(j) EXEMPTION FOR SMALL DEPOSITORY INSTITUTIONS.—This section shall not apply with respect to any fiscal year of any insured depository institution the total assets of which, as of the beginning of such fiscal year, are less than the greater of—

"(1) $150,000,000; or

"(2) such amount (in excess of $150,000,000) as the Corporation may prescribe by regulation.".

(b) EFFECTIVE DATE.—The requirements established by the amendment made by subsection (a) shall apply with respect to fiscal years of insured depository institutions which begin after December 31, 1992.

SEC. 113. ASSESSMENTS REQUIRED TO COVER COSTS OF EXAMINATIONS.

(a) IN GENERAL.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) (as added by section 111(a)(1) of this subtitle) the following new subsection:

"(e) EXAMINATION FEES.—

"(1) REGULAR AND SPECIAL EXAMINATIONS OF DEPOSITORY INSTITUTIONS.—The cost of conducting any regular examination or special examination of any depository institution under subsection (b)(2), (b)(3), or (d) may be assessed by the Corporation against the institution in proportion to the assets or resources of the institution.

"(2) EXAMINATION OF AFFILIATES.—The cost of conducting any examination of any affiliate of any insured depository institution under subsection (b)(4) may be assessed by the Corporation against each affiliate which is examined in proportion to the assets or resources held by the affiliate on the date of the examination.

"(3) ASSESSMENT AGAINST DEPOSITORY INSTITUTION IN CASE OF AFFILIATE'S REFUSAL TO PAY.—

"(A) IN GENERAL.—Subject to subparagraph (B), if any affiliate of any insured depository institution—

"(i) refuses to pay any assessment under paragraph (2); or

"(ii) fails to pay any such assessment before the end of the 60-day period beginning on the date the affiliate receives notice of the assessment,

the Corporation may assess such cost against, and collect such cost from, the depository institution.

"(B) AFFILIATE OF MORE THAN 1 DEPOSITORY INSTITUTION.—If any affiliate referred to in subparagraph (A) is an affiliate of more than 1 insured depository institution, the assessment under subparagraph (A) may be assessed against the depository institutions in such proportions as the Corporation determines to be appropriate.

"(4) CIVIL MONEY PENALTY FOR AFFILIATE'S REFUSAL TO COOPERATE.—

"(A) PENALTY IMPOSED.—If any affiliate of any insured depository institution—

"(i) refuses to permit an examiner appointed by the Board of Directors under subsection (b)(1) to conduct an examination; or

"(ii) refuses to provide any information required to be disclosed in the course of any examination,

the depository institution shall forfeit and pay a penalty of not more than $5,000 for each day that any such refusal continues.

"(B) ASSESSMENT AND COLLECTION.—Any penalty imposed under subparagraph (A) shall be assessed and collected by the Corporation in the manner provided in section 8(i)(2).

"(5) DEPOSITS OF EXAMINATION ASSESSMENT.—Amounts received by the Corporation under this subsection (other than paragraph (4)) may be deposited in the manner provided in section 13.".

(b) EXAMINATIONS OF APPLICANTS FOR DEPOSIT INSURANCE.—Section 10(b)(2)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(2)(B)) is amended to read as follows:

"(B) any depository institution which files an application with the Corporation to become an insured depository institution;".

(c) TECHNICAL AND CONFORMING AMENDMENT.—

(1) Section 7(b)(10) of the Federal Deposit Insurance Act (as so redesignated by section 103(b) of this Act) is amended by inserting "or section 10(e)" after "under this section".

(2) Section 10(b)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(4)(A)) is amended by striking "insured" each place such term appears.

SEC. 114. APPLICATION TO FDIC REQUIRED FOR INSURANCE.

(a) IN GENERAL.—Section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815(a)) is amended by striking all that precedes subsection (b) and inserting the following:

"SEC. 5. DEPOSIT INSURANCE.

"(a) APPLICATION TO CORPORATION REQUIRED.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), any depository institution which is engaged in the business of receiving deposits other than trust funds (as defined in section 3(p)), upon application to and examination by the Corporation and approval by the Board of Directors, may become an insured depository institution.

"(2) INTERIM DEPOSITORY INSTITUTIONS.—In the case of any interim Federal depository institution that is chartered by the appropriate Federal banking agency and will not open for business, the depository institution shall be an insured depository institution upon the issuance of the institution's charter by the agency.

"(3) APPLICATION AND APPROVAL NOT REQUIRED IN CASES OF CONTINUED INSURANCE.—Paragraph (1) shall not apply in the case of any depository institution whose insured status is continued pursuant to section 4.

"(4) REVIEW REQUIREMENTS.—In reviewing any application under this subsection, the Board of Directors shall consider the factors described in section 6 in determining whether to approve the application for insurance.

"(5) NOTICE OF DENIAL OF APPLICATION FOR INSURANCE.—If the Board of Directors votes to deny any application for insurance by any depository institution, the Board of Directors shall promptly notify the appropriate Federal banking agency and, in the case of any State depository institution, the appropriate State banking supervisor of the denial of such application, giving specific reasons in writing for the Board of Directors' determination with reference to the factors described in section 6.

"(6) NONDELEGATION REQUIREMENT.—The authority of the Board of Directors to make any determination to deny any application under this subsection may not be delegated by the Board of Directors.".

(b) CONTINUATION OF INSURANCE UPON BECOMING A MEMBER BANK.—Section 4(b) of the Federal Deposit Insurance Act (12 U.S.C. 1814(b)) is amended to read as follows:

"(b) CONTINUATION OF INSURANCE UPON BECOMING A MEMBER BANK.—In the case of an insured bank which is admitted to membership in the Federal Reserve System or an insured State bank which is converted into a national member bank, the bank shall continue as an insured bank.".

SEC. 115. REGULATORY REQUIREMENTS STUDY.

(a) STUDY REQUIRED.—The Federal Deposit Insurance Corporation shall conduct a study to determine—

(1) ways to reduce and streamline regulatory requirements imposed by Federal banking agencies, particularly for small community depository institutions; and

(2) which, if any, regulatory requirements may be waived for such institutions without endangering the safety and soundness of the institutions.

(b) REPORT.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Federal Deposit Insurance Corporation shall submit a report to the Congress and the other appropriate Federal banking agencies (as defined in section 3(q) of the Federal Deposit Insurance Act) containing the Corporation's findings and conclusions under the study conducted pursuant to subsection (a) and any recommendations for legislative or administrative action the Corporation may determine to be appropriate.

(c) IMPLEMENTATION.—The Federal Deposit Insurance Corporation and other appropriate Federal banking agencies (as defined in section 3(q) of the Federal Deposit Insurance Act), acting through the Federal Financial Institutions Examination Council, shall implement any recommendation for administrative action made by the Corporation pursuant to subsection (b).

Subtitle C—Accounting Reforms

SEC. 121. ACCOUNTING OBJECTIVES, STANDARDS, AND REQUIREMENTS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 36 (as added by section 112 of this title) the following new section:

"SEC. 37. ACCOUNTING OBJECTIVES, STANDARDS, AND REQUIREMENTS.

"(a) IN GENERAL.—

"(1) OBJECTIVES.—Accounting principles applicable to reports or statements required to be filed with Federal banking agencies by insured depository institutions should—

"(A) result in financial statements and reports of condition that accurately reflect the capital of such institutions;

"(B) facilitate effective supervision of the institutions; and

"(C) facilitate prompt regulatory action to resolve the institutions at the least cost to the insurance funds.

"(2) STANDARDS.—

"(A) UNIFORM ACCOUNTING PRINCIPLES CONSISTENT WITH GAAP.—Subject to the requirements of this Act and any other provision of Federal law, the accounting principles applicable to reports or statements required to be filed with Federal banking agencies by all insured depository institutions shall be uniform and consistent with generally accepted accounting principles.

"(B) STRINGENCY.—If the appropriate Federal banking agency or the Corporation determines that the application of any generally accepted accounting principle to any insured depository institution is inconsistent with the objectives described in paragraph (1), the agency or the Corporation may, with respect to reports or statements required to be filed with such agency or Corporation, prescribe an accounting principle which is applicable to such institutions which is no less stringent than generally accepted accounting principles.

"(3) REVIEW AND IMPLEMENTATION OF ACCOUNTING PRINCIPLES REQUIRED.—Before the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, each appropriate Federal banking agency shall take the following actions:

"(A) REVIEW OF ACCOUNTING PRINCIPLES.—Review—

"(i) all accounting principles used by depository institutions with respect to reports or statements required to be filed with a Federal banking agency;

"(ii) all requirements established by the agency with respect to such accounting procedures; and

"(iii) the procedures and format for reports to the agency, including reports of condition.

"(B) MODIFICATION OF NONCOMPLYING PRINCIPLES.—Modify or eliminate any accounting principle or reporting requirement of that Federal banking agency which the agency determines fails to comply with the objectives and standards established under paragraphs (1) and (2).

"(C) INCLUSION OF 'OFF BALANCE SHEET' ITEMS.—Develop and prescribe regulations which require that all assets and liabilities, including contingent assets and liabilities, of insured depository institutions be reported in, or otherwise taken into account in the preparation of any balance sheet, financial statement, report of condition, or other report of such institution, required to be filed with a Federal banking agency.

"(D) MARKET VALUE DISCLOSURE.—Develop jointly with the other appropriate Federal banking agencies a method for insured depository institutions to provide supplemental disclosure of the estimated fair market value of assets and liabilities, to the extent feasible and practicable, in any balance sheet, financial statement, report of condition, or other report of any insured depository institution required to be filed with a Federal banking agency.

"(b) UNIFORM ACCOUNTING OF CAPITAL STANDARDS.—

"(1) IN GENERAL.—Each appropriate Federal banking agency shall maintain uniform accounting standards to be used for determining compliance with statutory or regulatory requirements of insured depository institutions.

"(2) TRANSITION PROVISION.—Any standards in effect on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991 under section 1215 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall continue in effect after such date of enactment until amended by the appropriate Federal banking agency under paragraph (1).

"(c) REPORTS TO BANKING COMMITTEES.—

"(1) ANNUAL REPORTS REQUIRED.—Each appropriate Federal banking agency shall annually submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing a description of any difference between any accounting or capital standard used by such agency and any accounting or capital standard used by any other agency.

"(2) EXPLANATION OF REASONS FOR DISCREPANCY.—Each report submitted under paragraph (1) shall contain an explanation of the reasons for any discrepancy between any accounting or capital standard used by such agency and any accounting or capital standard used by any other agency.

"(3) PUBLICATION.—Each report under this subsection shall be published in the Federal Register.".

(b) REPEAL OF PROVISION SUPERSEDED BY SUBSECTION (a) AMENDMENTS.—Section 1215 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833d) is hereby repealed.

SEC. 122. SMALL BUSINESS LOAN DATA REQUIRED IN REPORTS OF CONDITION.

Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end the following new paragraph:

"(9) SMALL BUSINESS AND SMALL FARM LOAN DATA.—

"(A) IN GENERAL.—In the report of condition required under paragraph (3) for the 4th quarter of each calendar year, each insured depository institution shall include information indicating the total number and aggregate dollar amount of the institution's outstanding loans in each of the following categories:

"(i) Commercial loans to small businesses.

"(ii) Commercial mortgage loans to small businesses.

"(B) REPORTING CATEGORIES.—The information required by subparagraph (A) shall be listed separately for each of the following small business categories:

"(i) Businesses which were in existence for less than a year at the time the reported loans were made.

"(ii) Businesses with annual sales of $100,000 or less.

"(iii) Businesses with annual sales of more than $250,000 but not more than $250,000.

"(iv) Businesses with annual sales of more than $250,000 but not more than $1,000,000.

"(v) Businesses with annual sales of more than $1,000,000 but not more than $20,000,000.

"(C) MINORITY-OWNED BUSINESS CATEGORY.—The information required by subparagraphs (A) and (B) shall be further itemized for minority-owned small businesses.

"(D) CHARGE-OFFS AND INTEREST AND FEE INCOME.—Any report of condition referred to in subparagraph (A) shall indicate the insured depository institution's net charge-offs and the interest and fee income for commercial loans to small businesses and for commercial mortgage loans to small businesses, listed separately for each of the following small business categories:

"(i) Businesses with annual sales of $250,000 or less.

"(ii) Businesses with annual sales of more than $250,000.

"(E) AGRICULTURAL LOANS TO SMALL FARMS.—Any report of condition referred to in subparagraph (A) shall indicate the total number and aggregate dollar amount of the insured depository institution's outstanding agricultural loans to small farms.

"(F) DEFINITIONS.—For purposes of this paragraph—

"(i) SMALL BUSINESS.—The term 'small business' means an enterprise with annual sales of $20,000,000 or less.

"(ii) SMALL FARM.—The term 'small farm' means a farm business with annual sales of $500,000 or less.

"(iii) COMMERCIAL LOAN.—The term 'commercial loan' means a loan that is reportable as a commercial and industrial loan in the reports of condition submitted pursuant to this subsection.

"(iv) COMMERCIAL MORTGAGE LOAN.—The term 'commercial mortgage loan' means a loan that is reportable as a real estate loan secured by nonfarm nonresidential properties in the reports of condition submitted pursuant to this subsection.

"(v) AGRICULTURAL LOAN.—The term 'agricultural loan' means a loan that is reportable as a loan to finance agricultural production and other loans to farmers in the reports of condition submitted pursuant to this subsection.

"(G) EXEMPTION FOR SMALL DEPOSITORY INSTITUTIONS.—The requirements of this paragraph shall not apply to any insured depository institution which has total assets, as of the most recent full fiscal year of such institution, of $100,000,000 or less.".

Subtitle D—Prompt Regulatory Action

SEC. 131. PROMPT REGULATORY ACTION.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 37 (as added by section 121 of this title) the following new section:

"SEC. 38. PROMPT REGULATORY ACTION.

"(a) ESTABLISHMENT AND IMPLEMENTATION REQUIRED.—

"(1) IN GENERAL.—Each appropriate Federal banking agency and the Corporation (acting in the Corporation's capacity as the insurer of depository institutions under this Act) shall establish a prompt regulatory action system which meets the requirements of this section, including the establishment of any standards, minimum capital requirements, deadlines for the submission and review of plans, and other classifications required to implement this section.

"(2) DOCUMENTATION OF DETERMINATION.—In complying with this section, the agency and the Corporation shall document in writing the facts and assumptions and any other conclusion underlying any determination to take any specific action and any determination not to take any other action authorized under this section.

"(3) DEADLINE FOR REGULATIONS.—Each appropriate Federal banking agency and the Corporation (with respect to regulations required to be prescribed under this section by the Corporation other than as an appropriate Federal banking agency) shall, after notice and opportunity for comment, prescribe final regulations under paragraph (1) not later than 180 days after the date of enactment of this Act and such regulations shall take effect not later than 270 days after such date of enactment.

"(b) DEFINITIONS.—For purposes of this section—

"(1) CAPITAL DISTRIBUTION.—The term 'capital distribution' means any of the following:

"(A) A dividend or other distribution in cash or in kind made with respect to any shares or other ownership interest of any insured depository institution, except a dividend consisting only of shares of the institution or any amount paid on the deposits of a mutual savings bank or a mutual savings association that is determined by the appropriate Federal banking agency not to constitute a dividend.

"(B) A payment made by an insured depository institution to repurchase, redeem, retire, or otherwise acquire any of the institution's shares, including any extension of credit made to finance an affiliate's acquisition of such shares.

"(C) A transaction that the appropriate Federal banking agency or the Corporation determines by order or regulation to be in substance the distribution of capital.

"(2) COMPENSATION.—The term 'compensation' means any payment of money or provision of any other thing of current or potential value in connection with employment.

"(3) CRITICAL CAPITAL LEVEL.—The term 'critical capital level' means a ratio of tier 1 capital to total assets of 2 percent.

"(4) EXECUTIVE OFFICER.—The term 'executive officer' shall have the same meaning as provided in section 22(h) of the Federal Reserve Act.

"(5) LEVEL 1 DEPOSITORY INSTITUTION.—The term 'level 1 depository institution' means any insured depository institution which—

"(A) maintains a risk-based capital ratio that is significantly in excess of the required minimum ratio;

"(B) maintains tier 1 capital that is significantly in excess of the required minimum for tier 1 capital; and

"(C) maintains capital that meets or exceeds the required minimum ratio for each other relevant capital measure.

"(6) LEVEL 2 DEPOSITORY INSTITUTION.—The term 'level 2 depository institution' means any insured depository which—

"(A) maintains capital in an amount that meets or exceeds the required minimum ratio for each relevant capital measure; and

"(B) is not a level 1 depository institution.

"(7) LEVEL 3 DEPOSITORY INSTITUTION.—The term 'level 3 depository institution' means any insured depository institution which—

"(A) is not in compliance with all currently applicable capital standards; and

"(B) is not a level 4 or level 5 depository institution.

"(8) LEVEL 4 DEPOSITORY INSTITUTION.—The term 'level 4 depository institution' means any insured depository institution which maintains capital in an amount which—

"(A) is significantly less than the required minimum ratio for any relevant capital measure; and

"(B) exceeds the critical capital level.

"(9) LEVEL 5 DEPOSITORY INSTITUTION.—The term 'level 5 depository institution' means any insured depository institution which maintains capital in an amount which is less than or equal to the critical capital level.

"(10) LEVERAGE LIMIT.—The term 'leverage limit' means the leverage limit established by the appropriate Federal banking agency.

"(11) OTHER DEFINITIONS RELATING TO CAPITAL MEASURES.—The terms 'total assets', 'tier 1 capital', and 'tier 2 capital' have the meaning given to such terms by the appropriate Federal banking agencies.

"(12) REQUIRED MINIMUM RATIO.—The 'required minimum ratio' means the minimum acceptable capital level adopted by the appropriate Federal banking agency by regulation or guideline with respect to each relevant capital measure.

"(13) RISK-BASED CAPITAL RATIO.—The term 'risk-based capital ratio' means the risk-based capital standard established by the appropriate Federal banking agency.

"(14) SUBORDINATED DEBT.—The term 'subordinated debt' means debt subordinated to the claims of depositors or general creditors.

"(15) UNDERCAPITALIZED DEPOSITORY INSTITUTION.—The term 'undercapitalized depository institution' means any level 3, level 4, or level 5 depository institution.

"(c) CAPITAL MEASURES AND RECLASSIFICATIONS OF LEVELS.—

"(1) CAPITAL AND LEVERAGE LIMIT REQUIREMENTS.—

"(A) IN GENERAL.—Any capital measure prescribed by any appropriate Federal banking agency for purposes of this section shall include at a minimum—

"(i) a tier 1 capital to assets ratio;

"(ii) a risk-based capital ratio; and

"(iii) a leverage limit.

"(B) INTEREST RATE AND OTHER MARKET RISKS.—In establishing any risk-based capital standard for purposes of this section, the appropriate Federal banking agencies shall take into account interest rate risk and other market risks.

"(2) MINIMUM CAPITAL RATIOS FOR INSTITUTIONS IN EACH LEVEL.—Consistent with the purposes of this section, each appropriate Federal banking agency shall establish, by regulation, the applicable minimum capital ratios for each relevant capital measure for the insured depository institutions in each level of depository institutions defined in subsection (a).

"(3) OTHER CAPITAL MEASURES.—An appropriate Federal banking agency may, by regulation or guideline, establish any additional relevant capital measure consistent with the purposes of this section.

"(4) CONSULTATION.—In prescribing any regulation under paragraph (2), each appropriate Federal banking agency shall consult with the Corporation.

"(5) RECLASSIFICATION OF UNSAFE OR UNSOUND INSTITUTIONS.—If the appropriate Federal banking agency or the Corporation determines that any insured depository institution is in an unsafe and unsound condition or is operating in a manner which poses a risk to any deposit insurance fund, the agency or the Corporation shall reclassify such institution as a depository institution of an appropriate level for purposes of this section.

"(d) STANDARDS FOR SAFETY AND SOUNDNESS.—

"(1) OPERATIONAL AND MANAGERIAL STANDARDS.—The appropriate Federal banking agencies, in consultation with the Credit Standards Advisory Committee, shall establish operational and managerial standards for all insured depository institutions and depository institution holding companies, including standards relating to the following subjects:

"(A) Internal controls, information systems, and internal audit systems in accordance with section 36.

"(B) Loan documentation requirements.

"(C) Underwriting standards.

"(D) Interest rate exposure.

"(E) Asset growth.

"(2) ASSET AND EARNINGS STANDARDS.—The appropriate Federal banking agencies shall establish standards governing the asset quality and earnings of any insured depository institution or depository institution holding company which shall include—

"(A) a maximum classified loans to capital ratio; and

"(B) an earnings standard for such institutions and companies which require such institutions and companies to maintain earnings sufficient to absorb losses of the institution or company without impairing the capital of the institution or holding company.

"(3) REQUIRED ACTION FOR FAILURE TO COMPLY WITH STANDARDS.—

"(A) CORRECTIVE ACTION PLAN.—In addition to any other action which the appropriate Federal banking agency may take, the agency shall require any insured depository institution or depository institution holding company which fails to meet any standard established pursuant to paragraph (1) or (2) to submit a corrective action plan for correcting any deficiency of the institution or company with respect to such standard to the agency not later than 30 days after the institution is notified by the agency of such failure.

"(B) FAILURE TO COMPLY.—If any insured depository institution or depository institution holding company fails to submit a corrective action plan which meets the appropriate Federal banking agency's approval or fails to comply with the corrective action plan, the agency shall issue an order requiring such corrective action and impose such restrictions as the agency determines to be appropriate.

"(C) RESTRICTIONS WHICH MAY BE INCLUDED IN ORDER.—Any order issued under subparagraph (B) to any insured depository institution or depository institution holding company may include the following restrictions:

"(i) RESTRICTING ASSET GROWTH.—Subject to subparagraph (E), prohibiting any increase in total assets of the institution.

"(ii) RESTRICTING INTEREST RATES PAID.—Restricting the interest rates the institution pays on deposits accepted after the date of the order, including any renewal or rollover of any deposit held on such date.

"(iii) REQUIRING AN INCREASE IN CAPITAL.—Requiring the institution or company to increase the amount of capital of the institution or company.

"(D) ORDER REQUIRED FOR CERTAIN INSTITUTIONS.—The appropriate Federal banking agency shall issue an order under subparagraph (B) imposing at least 1 of the restrictions described in subparagraph (C) on an insured depository institution if—

"(i) the insured depository institution fails to meet any operational and managerial standard established pursuant to paragraph (1) or asset and earnings standard established pursuant to paragraph (2); and

"(ii) the institution—

"(I) has been chartered as a depository institution for less than 2 years;

"(II) has undergone a change in control within the 2 years preceding the date on which the institution first failed to meet a standard described in clause (i); or

"(III) has experienced extraordinary growth (as defined by the agency) during the 18-month period ending on the date on which the institution first failed to meet a standard described in clause (i).

"(E) LIMITED GROWTH EXCEPTION.—Any order issued by any appropriate Federal banking agency under subparagraph (B) which prohibits any increase in the total assets of any insured depository institution in accordance with subparagraph (C)(i) may permit the institution to increase assets in an amount not to exceed the amount of net interest credited to the institution's deposit liabilities if—

"(i) the institution obtains the agency's written approval;

"(ii) any increase in assets is accompanied by an increase in tier 1 capital of a percentage (of such capital) which is not less than the leverage ratio applicable to the institution; and

"(iii) any increase in assets is invested in low-risk assets.

"(4) PROCEDURES.—Each appropriate Federal banking agency shall establish requirements and procedures for the preparation and submission of corrective action plans under paragraph (3) to the agency and shall require the agency to review and to approve or disapprove such plan before the end of the 60-day period beginning on the date such plan is received.

"(e) CAPITAL DISTRIBUTIONS RESTRICTED.—

"(1) IN GENERAL.—An insured depository institution shall make no capital distribution if the institution would not meet all currently applicable capital standards after making the distribution.

"(2) EXCEPTION.—Notwithstanding paragraph (1), any appropriate Federal banking agency, after consultation with the Corporation, may approve a capital distribution by any insured depository institution which would, but for this subparagraph, be prohibited under paragraph (1), if the agency makes a prior written determination that the distribution will enhance the ability of the institution to satisfy capital standards and the institution submits a capital restoration plan in accordance with subsection (f)(1) which is approved by the agency.

"(f) PROVISIONS APPLICABLE TO UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—

"(1) CAPITAL RESTORATION PLAN REQUIRED.—

"(A) IN GENERAL.—Any undercapitalized depository institution shall submit a capital restoration plan to the appropriate Federal banking agency before the end of the period prescribed by the agency under subparagraph (C).

"(B) CONTENTS OF PLAN.—The capital restoration plan shall—

"(i) specify how the insured depository institution will satisfy all applicable capital standards, without increasing the risk (including credit risk, interest rate risk, and other types of risk) to which the institution is exposed;

"(ii) specify the types and levels of activities in which the institution will engage; and

"(iii) contain such other information as the appropriate Federal banking agency may require.

"(C) DEADLINES FOR SUBMISSION AND REVIEW OF PLANS.—Each appropriate Federal banking agency shall establish deadlines that—

"(i) provide insured depository institutions with reasonable time to submit capital restoration plans, and generally require an institution to submit a plan not later than 45 days after the institution is first classified as an undercapitalized depository institution;

"(ii) require the agency to approve or disapprove any capital restoration plan expeditiously and generally not later than 60 days after the plan is submitted; and

"(iii) require the agency to submit a copy of any plan approved by the agency to the Corporation before the end of the 45-day period beginning on the date such approval is granted.

"(2) ASSET GROWTH RESTRICTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the appropriate Federal banking agency shall prohibit any asset growth by any undercapitalized depository institution.

"(B) LIMITED GROWTH EXCEPTION.—The appropriate Federal banking agency may permit an undercapitalized depository institution to increase assets in an amount not to exceed the amount of net interest credited to the institution's deposit liabilities if—

"(i) the institution obtains the agency's written approval;

"(ii) any increase in tier 1 capital of a percentage (of such capital) which is not less than the leverage ratio applicable to the institution; and

"(iii) any increase in assets is invested in low-risk assets.

"(3) CAPITAL PLAN GUARANTEE.—

"(A) IN GENERAL.—The appropriate Federal banking agency shall not approve a capital restoration plan under this subsection unless each company having control of the insured depository institution guarantees in writing the institution's compliance with the plan until the institution has satisfied all applicable capital standards for each of 12 consecutive months, and provides appropriate written assurances of continued performance.

"(B) AGGREGATE LIABILITY.—The aggregate amount of liability for any company under subparagraph (A) with respect to any insured depository institution shall not exceed the amount which is necessary (or would have been necessary) to bring the institution into compliance with all capital standards applicable with respect to such institution as of the time the institution fails to comply with a plan under this subsection.

"(C) NO EFFECT ON SECURITIES EXCHANGE ACT REQUIREMENTS.—Nothing in this section shall be interpreted to supersede, or in any way limit or condition compliance by brokers, dealers, government securities brokers, and government securities dealers with the financial responsibility requirements of the Securities Exchange Act of 1934 and the rules, regulations, and orders thereunder.

"(4) EXAMINATION RATINGS TAKEN INTO ACCOUNT.—In reviewing any capital restoration plan submitted under this section with respect to any insured depository institution, the appropriate Federal banking agency may take into account the CAMEL ratings of such institution under the Uniform Financial Institutions Rating System (or any equivalent rating under a comparable system).

"(g) PROVISIONS APPLICABLE TO LEVEL 4 AND LEVEL 5 DEPOSITORY INSTITUTIONS AND INSTITUTIONS THAT FAIL TO SUBMIT OR IMPLEMENT CAPITAL RESTORATION PLANS.—

"(1) SCOPE OF APPLICATION.—This subsection shall apply to—

"(A) any level 4 or level 5 depository institution; and

"(B) any undercapitalized depository institution which—

"(i) fails to submit an acceptable capital restoration plan within the time allowed by the appropriate Federal banking agency under subsection (f)(1)(C); or "(ii) fails in any material respect to implement a capital restoration plan approved by the agency.

"(2) AGENCY ACTIONS REQUIRED.—

"(A) IN GENERAL.—The appropriate Federal banking agency shall carry out the purpose of this section by issuing an order which imposes 1 or more of the actions described in paragraph (3) with respect to any institution described in paragraph (1).

"(B) SUBSECTION (h) ACTIONS AUTHORIZED.—In addition to actions described in paragraph (3), any appropriate Federal banking agency may issue an order which imposes, with respect to any institution described in paragraph (1), any restriction applicable under subsection (h) to any level 5 depository institution.

"(3) SPECIFIC ACTIONS AUTHORIZED.—The actions described in this paragraph with respect to any insured depository institution described in paragraph (1) are the following:

"(A) REQUIRING SALE OF SHARES OR OBLIGATIONS.—

"(i) Requiring the institution to sell enough shares or obligations of the institution so that the institution will satisfy capital standards after the sale.

"(ii) Requiring that instruments sold under clause (i) be voting shares.

"(B) RESTRICTING INTEREST RATES PAID.—Restricting the interest rates the institution pays on deposits accepted after the date of the order, including any renewal or rollover of any deposit held on such date.

"(C) PROHIBITING PAYMENT OF BONUSES TO EXECUTIVE OFFICERS.—Prohibiting the payment of any bonus to any executive officer.

"(D) PROHIBITING PAYMENT OF EXCESSIVE COMPENSATION TO EXECUTIVE OFFICERS.—Prohibiting the payment of compensation to any executive officer at a rate exceeding that officer's average rate of compensation during the 12 calendar months preceding the calendar month in which the institution ceased to comply with capital standards.

"(E) REQUIRING FDIC APPROVAL FOR NEW BRANCHES.—Requiring the institution to obtain the approval of the Corporation before establishing or acquiring any new branch.

"(F) PROHIBITING DEPOSITS FROM CORRESPONDENT BANKS.—Prohibiting the acceptance by the institution of deposits from correspondent depository institutions, including renewals and rollovers of prior deposits.

"(G) RESTRICTING OTHER ACTIVITIES.—Prohibiting any other activity of the institution which the agency finds is detrimental, or is likely to be detrimental, to the institution's financial condition.

"(H) REQUIRING A NEW ELECTION OF DIRECTORS.—Requiring a new election for the institution's board of directors or any member of the board of directors.

"(h) ADDITIONAL PROVISIONS APPLICABLE TO LEVEL 5 DEPOSITORY INSTITUTIONS.—

"(1) LIMITATIONS ON PAYMENTS ON SUBORDINATED DEBT.—

"(A) IN GENERAL.—An insured depository institution shall make no payment of principal or interest on the institution's subordinated debt unless, after making the payment, the institution would have capital in an amount which is equal to or greater than the critical capital level applicable with respect to such institution.

"(B) LIMITED EXEMPTION FOR CERTAIN SUBORDINATED DEBT.—Until January 1, 1996, subparagraph (A) shall not apply with respect to any subordinated debt that is—

"(i) outstanding on January 1, 1991; and

"(ii) not extended or otherwise renegotiated after such date.

"(2) CONSERVATORSHIP OR OTHER ACTION REQUIRED.—

"(A) IN GENERAL.—Before the end of the 120-day period beginning on the date the capital of any insured depository institution ceases to equal or exceed the critical capital level specified under subsection (b)(3), the appropriate Federal banking agency shall, notwithstanding any provision of any State law, appoint a conservator or receiver for the institution under this Act or any other applicable Federal law.

"(B) OTHER ACTION.—Notwithstanding the requirement under subparagraph (A) to appoint a conservator or receiver for any institution described in such subparagraph, the appropriate Federal banking agency shall take any other action described in subsection (g)(3) which the agency determines to be appropriate in lieu of such appointment if the agency—

"(i) determines in writing, with the concurrence of the Corporation, that such action would better achieve the purposes of this section; and

"(ii) documents that such action would protect the appropriate deposit insurance fund more than the immediate appointment of a conservator or receiver for such institution.

"(C) PERIODIC REDETERMINATIONS REQUIRED.—Any determination by any appropriate Federal banking agency under subparagraph (B) to take any action with respect to an insured depository institution in lieu of the appointment of a conservator or receiver shall cease to be effective not later than the end of the 90-day period beginning on the date such determination is made and a conservator or receiver shall be appointed for such institution pursuant to subparagraph (A) unless the agency makes a new determination under subparagraph (B) at the end of the effective period of the prior determination.

"(D) APPOINTMENT OF RECEIVER REQUIRED IF OTHER ACTION FAILS TO RESTORE CAPITAL.—In the case of any institution referred to in subparagraph (A) for which a receiver has not been appointed and notwithstanding any provision of the law of any State, the appropriate Federal banking agency shall appoint a receiver for such institution as follows:

"(i) If the capital of such institution does not exceed the critical capital level at the end of the 6-month period beginning on the date action is first taken by the agency under subparagraph (A) or (B), a receiver shall be appointed at the end of such period.

"(ii) If the capital of such institution exceeds the critical capital level at the end of the 6-month period but fails to exceed such level at the end of any of the 3 months immediately following the end of that period, a receiver shall be appointed.

"(E) ACQUISITION BY ANOTHER INSURED DEPOSITORY INSTITUTION.—Notwithstanding the requirement under subparagraph (A) to appoint a conservator or receiver for any insured depository institution described in such subparagraph and subject to section 13, the appropriate Federal banking agency may require the insured depository institution to be acquired (as defined in section 13(f)(8)(B)) by another insured depository institution which offers to acquire such institution if the agency determines, with the concurrence of the Corporation, that such acquisition would resolve the capital problems of the institution in a manner that is least costly to the affected deposit insurance fund and the taxpayer.

"(i) RESTRICTING ACTIVITIES OF LEVEL 5 DEPOSITORY INSTITUTIONS.—

"(1) IN GENERAL.—In addition to any other action authorized or required under this section, the Corporation shall, by regulation or order, restrict the activities of any level 5 depository institution.

"(2) MINIMUM RESTRICTIONS.—Regulations and orders prescribed or issued by the Corporation under paragraph (1) with respect to any institution described in such paragraph shall prohibit, at a minimum, the following activities by any such institution without the Corporation's prior written approval:

"(A) Any material transaction other than in the usual course of business, including any investment, expansion, acquisition, or other similar action with respect to which the institution is required to provide notice to the appropriate Federal banking agency.

"(B) Any highly leveraged transaction.

"(C) Any amendment to any charter or bylaws other than to the extent necessary to carry out any other requirement of any law, regulation, or order.

"(D) Any material change in accounting methods.

"(E) Any covered transaction (as defined in section 23A(b) of the Federal Reserve Act).

"(F) Payment of excessive compensation or bonuses.

"(G) Pay interest on new or renewed liabilities at a rate that would increase the institution's weighted average cost of funds.

"(H) Any other limitation on activities which will carry out the purposes of this section.

"(3) TERMINATION OF AFFILIATIONS.—The appropriate Federal banking agency or the Corporation may require any level 5 depository institution or any depository institution holding company which controls such institution to terminate any affiliation with any affiliate of such institution (other than an affiliate which is an insured depository institution) if the agency or the Corporation determines that the affiliate—

"(A) is in danger of default;

"(B) poses a significant risk to the liquidity or solvency of the insured depository institution or any insured depository institution subsidiary of such company; or

"(C) is likely to cause a significant dissipation of such institution's or subsidiary's assets or earnings.

"(4) CONSULTATION WITH OTHER FUNCTIONAL REGULATORS.—Before the agency or Corporation makes a determination under paragraph (3) with respect to an affiliate that is a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser, the agency or Corporation shall consult with the Securities and Exchange Commission and, in the case of any other affiliate which is subject to any financial responsibility or capital requirement, any other functional regulator (as defined in section 2(s) of the Bank Holding Company Act of 1956) of such affiliate with respect to the proposed determination of the agency or the Corporation and actions pursuant to such determination.

"(j) REVIEW REQUIRED IF INSURANCE FUND INCURS LOSS.—

"(1) IN GENERAL.—If any insurance fund or the Resolution Trust Corporation incurs a loss with respect to an insured depository institution on or after the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the Inspector General of the Corporation shall—

"(A) review the regulatory supervision of the institution (including the implementation of this section) and ascertain why there was a loss to the fund;

"(B) transmit a written report to the appropriate Federal banking agency, the Corporation, and, in the case of a State depository institution, the appropriate State bank supervisor on the results of the review under subparagraph (A), including recommendations for preventing any such loss in the future; and

"(C) provide a copy of the report to—

"(i) the Comptroller General of the United States; and

"(ii) the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(2) LOSS INCURRED.—For purposes of this subsection, any insurance fund incurs a loss with respect to an insured depository institution—

"(A) if the Corporation provides any assistance under section 13(c) with respect to that institution; or

"(B) if the Corporation is appointed receiver for the institution.

"(3) DEADLINE FOR REPORT.—The Inspector General of the Corporation shall comply with paragraph (1) expeditiously, and in any event as follows:

"(A) If the institution is described in paragraph (2)(A), before the end of the 18-month period beginning when the assistance is provided unless the assistance is fully repaid before the end of that period.

"(B) If the institution is described in paragraph (2)(B), before the end of the 12-month period beginning on the date the receiver is appointed for the institution.

"(4) PUBLIC DISCLOSURE REQUIRED.—The Corporation shall disclose any report under paragraph (1)(B) upon request under section 552 of title 5, United States Code, without excising—

"(A) any portion of the report under section 552(b)(5); or

"(B) any information about the insured depository institution under paragraph (4) or (8) of section 552(b).

"(5) GAO REVIEW.—The Comptroller General of the United States shall annually—

"(A) review reports made under paragraph (1)(B) and recommend improvements in the supervision of insured depository institutions (including the implementation of this section); and

"(B) audit 1 or more of those reports.

"(6) APPLICABILITY.—This subsection shall not apply with respect to any assistance provided under section 13(c), or the appointment of any receiver, before the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991.

"(k) NEW CAPITAL PLAN NOT REQUIRED FOR CERTAIN SAVINGS ASSOCIATIONS.—Subsections (e), (f), (g), (h), and (i) shall not apply before July 1, 1994, with respect to any insured savings association if—

"(1) before the end of the 30-day period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the savings association has submitted a plan meeting the requirements of section 5(t)(6) of the Home Owners' Loan Act;

"(2) the Director of the Office of Thrift Supervision approves or does not disapprove that plan;

"(3) the plan remains in effect; and

"(4) the savings association remains in compliance with the plan.".

(b) CONSERVATORSHIP AND RECEIVERSHIP AUTHORITY.—

(1) ADDITIONAL GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER FOR STATE BANKS.—Section 11(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(5)) is amended by redesignating subparagraph (H) as subparagraph (I) and by inserting after subparagraph (G) the following new subparagraph:

"(H) In the case of any undercapitalized depository institution (as defined in section 38(b))—

"(i) failure to submit a capital restoration plan acceptable to the appropriate Federal banking agency within the time prescribed under section 38(f)(1)(C); or

"(ii) failure to implement a capital restoration plan submitted and accepted under section 38(f)(1)(C).".

(2) ADDITIONAL GROUNDS FOR APPOINTING CONSERVATOR FOR NATIONAL BANKS.—Section 203(a) of the Bank Conservation Act (12 U.S.C. 203(a)) is amended—

(A) by striking "or" at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(9) in the case of a bank not in compliance with all currently applicable capital standards, the bank fails—

"(A) to submit a capital restoration plan acceptable to the Comptroller of the Currency within the time prescribed under section 38(f)(1)(C) of the Federal Deposit Insurance Act; or

"(B) to implement a capital restoration plan submitted and accepted under section 38(f)(1)(C).".

(3) ADDITIONAL GROUNDS FOR APPOINTING RECEIVER FOR NATIONAL BANKS.—The Comptroller of the Currency may appoint a receiver for any national bank which is not in compliance with all currently applicable capital standards if the bank—

(A) fails to submit a capital restoration plan acceptable to the Comptroller within the time prescribed under section 38(f)(1)(C) of the Federal Deposit Insurance Act; or

(B) fails to implement a capital restoration plan submitted and accepted under section 38(f)(1)(C) of the Federal Deposit Insurance Act.

(4) ADDITIONAL GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER FOR FEDERAL SAVINGS ASSOCIATIONS.—Section 5(d)(2)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(2)(A)) is amended—

(A) by striking "or" at the end of clause (vii);

(B) by striking the period at the end of clause (viii) and inserting a semicolon; and

(C) by adding at the end the following new clause:

"(ix) with respect to an association not in compliance with all currently applicable capital standards prescribed by the Director—

"(I) failure to submit a capital restoration plan acceptable to the Director within the time prescribed under section 38(f)(1)(C); or

"(II) failure to implement a capital restoration plan submitted and accepted under section 38(f)(1)(C).".

SEC. 132. APPOINTMENT OF CONSERVATOR OR RECEIVER FOR INSURED STATE DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—Section 11(c)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(4)) is amended to read as follows:

"(4) APPOINTMENT OF THE CORPORATION BY THE CORPORATION.—

"(A) IN GENERAL.—Except as otherwise provided in section 21A of the Federal Home Loan Bank Act and notwithstanding any other provision of Federal law or the law or the constitution of any State, the Board of Directors may appoint the Corporation as sole conservator or receiver of an insured depository institution, after consultation with the appropriate Federal banking agency and the appropriate State bank supervisor (if any), if the Board of Directors determines that—

"(i) 1 or more of the grounds specified in any subparagraph of paragraph (5) exist with respect to the institution; and

"(ii) the appointment is necessary to reduce—

"(I) the risk that the affected deposit insurance fund would incur a loss with respect to the insured depository institution, or

"(II) any loss that the affected deposit insurance fund is expected to incur with respect to that institution.

"(B) NONDELEGATION.—The Board of Directors shall not delegate any action under this paragraph.".

(b) AMENDMENT RELATING TO APPLICABLE GROUND.—Section 11(c)(5)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(5)(B)) is amended to read as follows:

"(B) A finding by the Corporation that—

"(i) a conservator, receiver, or other legal custodian has been appointed for the institution;

"(ii) the institution has been subject to the appointment of any such conservator, receiver, or custodian for a period of at least 15 days; and

"(iii) 1 or more of the depositors in the institution is unable to withdraw any amount of any insured deposit.".

Subtitle E—Least-Cost Resolution

SEC. 141. LEAST-COST RESOLUTION.

(a) LEAST-COST RESOLUTIONS REQUIRED.—

(1) IN GENERAL.—Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended—

(A) by redesignating paragraphs (5), (6), (7), (8), and (9) as paragraphs (6), (7), (8), (9) and (10), respectively;

(B) by redesignating subparagraph (B) of paragraph (4) as paragraph (5); and

(C) by amending paragraph (4) (as amended by subparagraph (B) of this paragraph) to read as follows:

"(4) LEAST-COST RESOLUTION REQUIRED.—

"(A) IN GENERAL.—Notwithstanding any other provision of this Act, the Corporation may not exercise any authority under this section with respect to any insured depository institution unless—

"(i) the Corporation determines that the exercise of such authority is necessary to meet the obligation of the Corporation to provide insurance coverage for the insured deposits in such institution; and

"(ii) the total amount of the expenditures by the Corporation and obligations incurred by the Corporation (including any immediate and long-term obligation of the Corporation and any direct or contingent liability for future payment by the Corporation) in connection with the exercise of any such authority with respect to such institution is the least costly to the affected deposit insurance fund of all possible methods for meeting the Corporation's obligation under this section.

"(B) DETERMINING LEAST COSTLY APPROACH.—In determining how to satisfy the Corporation's obligations to an institution's insured depositors at the least possible cost to the affected deposit insurance fund, the Corporation shall comply with the following provisions:

"(i) PRESENT-VALUE ANALYSIS; DOCUMENTATION REQUIRED.—The Corporation shall—

"(I) evaluate alternatives on a present-value basis, using a realistic discount rate;

"(II) document that evaluation and the assumptions on which the evaluation is based, including any assumptions with regard to interest rates, asset recovery rates, asset holding costs, and payment of contingent liabilities; and

"(III) retain the documentation for not less than 5 years.

"(ii) FOREGONE TAX REVENUES.—Federal tax revenues that the Government would forego as the result of a proposed transaction, to the extent reasonably ascertainable, shall be treated as if they were revenues foregone by the affected deposit insurance fund.

"(C) TIME OF DETERMINATION.—

"(i) GENERAL RULE.—For purposes of this subsection, the determination of the costs of providing any assistance under paragraph (1) or (2) or any other provision of this section with respect to any depository institution shall be made as of the date on which the Corporation makes the determination to provide such assistance to the institution under this section.

"(ii) RULE FOR LIQUIDATIONS.—For purposes of this subsection, the determination of the costs of liquidation of any depository institution shall be made as of the earliest of—

"(I) the date on which a conservator is appointed for such institution;

"(II) the date on which a receiver is appointed for such institution; or

"(III) the date on which the Corporation makes any determination to provide any assistance under this section with respect to such institution.

"(D) LIQUIDATION COSTS.—In determining the cost of liquidating any depository institution for the purpose of comparing the costs under subparagraph (A) (with respect to such institution), the amount of such cost may not exceed the amount which is equal to the sum of the insured deposits of such institution as of the earliest of the dates described in subparagraph (C), minus the present value of the total net amount the Corporation reasonably expects to receive from the disposition of the assets of such institution in connection with such liquidation.

"(E) DEPOSIT INSURANCE FUNDS AVAILABLE FOR INTENDED PURPOSE ONLY.—

"(i) IN GENERAL.—After December 31, 1994, or at such earlier time as the Corporation determines to be appropriate, the Corporation may not take any action, directly or indirectly, with respect to any insured depository institution that would have the effect of increasing losses to any insurance fund by protecting—

"(I) depositors for more than the insured portion of deposits (determined without regard to whether such institution is liquidated); or

"(II) creditors other than depositors.

"(ii) DEADLINE FOR REGULATIONS.—The Corporation shall prescribe regulations to implement clause (i) not later than January 1, 1994, and the regulations shall take effect not later than January 1, 1995.

"(iii) PURCHASE AND ASSUMPTION TRANSACTIONS.—No provision of this subparagraph shall be construed as prohibiting the Corporation from allowing any person who acquires any assets or assumes any liabilities of any insured depository institution for which the Corporation has been appointed conservator or receiver to acquire uninsured deposit liabilities of such institution so long as the insurance fund does not incur any loss with respect to such deposit liabilities in an amount greater than the loss which would have been incurred with respect to such liabilities if the institution had been liquidated.

"(F) DISCRETIONARY DETERMINATIONS.—Any determination which the Corporation may make under this paragraph shall be made in the sole discretion of the Corporation.".

(2) ANNUAL GAO COMPLIANCE AUDIT.—The Comptroller General of the United States shall annually audit the Federal Deposit Insurance Corporation and the Resolution Trust Corporation to determine the extent to which such corporations are complying with section 13(c)(4) of the Federal Deposit Insurance Act.

(3) CLARIFICATION OF MANNER OF APPLICATION TO THE RTC.—Section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)) is amended—

(A) by striking "POWERS.—Except as" and inserting "POWERS.—

"(A) IN GENERAL.—Except as"; and

(B) by adding at the end the following new subparagraph:

"(B) MANNER OF APPLICATION OF LEAST-COST RESOLUTION.—For purposes of applying section 13(c)(4) of the Federal Deposit Insurance Act to the Corporation under subparagraph (A), the Corporation shall be treated as the affected deposit insurance fund.".

(b) SECURED CLAIMS IN EXCESS OF VALUE OF COLLATERAL.—Section 11(d)(5)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(5)(D)) is amended to read as follows:

"(D) AUTHORITY TO DISALLOW CLAIMS.—

"(i) IN GENERAL.—The receiver may disallow any portion of any claim by a creditor or claim of security, preference, or priority which is not proved to the satisfaction of the receiver.

"(ii) PAYMENTS TO LESS THAN FULLY SECURED CREDITORS.—In the case of a claim of a creditor against an insured depository institution which is secured by any property or other asset of such institution, any receiver appointed for any insured depository institution—

"(I) may treat the portion of such claim which exceeds an amount equal to the fair market value of such property or other asset as an unsecured claim against the institution; and

"(II) may not make any payment with respect to such unsecured portion of the claim other than in connection with the disposition of all claims of unsecured creditors of the institution.

"(iii) Exception.—No provision of this paragraph shall apply with respect to—

"(I) any extension of credit from any Federal home loan bank or Federal Reserve bank to any institution described in paragraph (3)(A); or

"(II) any security interest in the assets of the institution securing any such extension of credit.".

(c) DATA COLLECTIONS.—Section 7(a)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(8)) is amended to read as follows:

"(8) DATA COLLECTIONS.—In addition to or in connection with any other report required under this subsection, the Corporation shall take such action as may be necessary to ensure that—

"(A) each insured depository institution maintains; and

"(B) the Corporation receives on a regular basis from such institution,

information on the total amount of all insured deposits, preferred deposits, and uninsured deposits at the institution.".

(d) INDUSTRY IMPACT ANALYSIS REQUIRED.—

(1) IN GENERAL.—Section 11(h) of the Federal Deposit Insurance Act (12 U.S.C. 1821(h)) is amended by adding at the end the following new paragraph:

"(4) FINANCIAL SERVICES INDUSTRY IMPACT ANALYSIS.—After the appointment of the Corporation as conservator or receiver for any insured depository institution and before taking any action under this section or section 13 in connection with the resolution of such institution, the Corporation shall—

"(A) evaluate the likely impact of the means of resolution, and any action which the Corporation may take in connection with such resolution, on the viability of other insured depository institutions in the same community; and

"(B) take such evaluation into account in determining the means for resolving the institution and establishing the terms and conditions for any such action.".

(2) CLERICAL AMENDMENT.—The heading for section 11(h) of the Federal Deposit Insurance Act (12 U.S.C. 1821(h) is amended by striking "LIQUIDATION" and inserting "RESOLUTION".

(e) ASSISTANCE BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended by redesignating paragraphs (8), (9), and (10) (as so redesignated by subsection (a)(1)(A) of this section), as paragraphs (9), (10), and (11), respectively, and by inserting after paragraph (7) the following new paragraph:

"(8) ASSISTANCE BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—

"(A) IN GENERAL.—Subject to the least-cost provisions of paragraph (4), the Corporation shall consider providing direct financial assistance under this section for depository institutions before the appointment of a conservator or receiver for such institution only under the following circumstances:

"(i) TROUBLED CONDITION CRITERIA.—The Corporation determines—

"(I) grounds for the appointment of a conservator or receiver exist or likely will exist in the future unless the depository institution's capital levels are increased; and

"(II) it is unlikely that the institution can meet all currently applicable capital standards without assistance.

"(ii) OTHER CRITERIA.—The depository institution meets the following criteria:

"(I) The appropriate Federal banking agency and the Corporation have determined that, during such period of time preceding the date of such determination as the agency or the Corporation considers to be relevant, the institution's management has been competent and has complied with applicable laws, rules, and supervisory directives and orders.

"(II) The institution's management did not engage in any insider dealing, speculative practice, or other abusive activity.

"(B) PUBLIC DISCLOSURE.—Any determination under this paragraph to provide assistance under this section shall be made in writing and published in the Federal Register.".

(f) DEFINITIONS.—Section 3(m) of the Federal Deposit Insurance Act (12 U.S.C. 1813(m)) is amended by adding at the end the following new paragraphs:

"(3) UNINSURED DEPOSITS.—The term 'uninsured deposit' means the amount of any deposit of any depositor at any insured depository institution in excess of the amount of the insured deposits of such depositor (if any) at such depository institution.

"(4) PREFERRED DEPOSITS.—The term 'preferred deposits' means deposits of any public unit (as defined in paragraph (1)) at any insured depository institution which are secured or collateralized as required under State law.".

SEC. 142. LIMITATION ON USE OF LIQUIDITY LENDING FOR DEPOSIT INSURANCE FUND PURPOSES.

(a) REDESIGNATION OF SECTION 10(b) OF THE FEDERAL RESERVE ACT.—The Federal Reserve Act is amended by redesignating section 10(b) (12 U.S.C. 347b) as section 10B.

(b) LIMITATION ON LIQUIDITY LENDING FOR DEPOSIT INSURANCE PURPOSES.—Section 10B of the Federal Reserve Act (as so redesignated by subsection (a) of this section) is amended—

(1) by striking "Any Federal Reserve bank" and inserting "(a) IN GENERAL.—Any Federal Reserve bank"; and

(2) by adding at the end the following new subsection:

"(b) LIMITATIONS ON ADVANCES.—

"(1) LIMITATION ON EXTENDED PERIODS.—Except as provided in paragraph (2), no advances to any undercapitalized depository institution by any Federal Reserve bank under this section may be outstanding for more than 60 days in any 120-day period.

"(2) VIABILITY EXCEPTION.—

"(A) IN GENERAL.—If—

"(i) the head of the appropriate Federal banking agency certifies in advance in writing to the Federal Reserve bank that any depository institution is a viable depository institution; or

"(ii) the Board conducts an examination of any depository institution and the Chairman of the Board certifies in writing to the Federal Reserve bank that the institution is a viable depository institution,

the limitation contained in paragraph (1) shall not apply during the 60-day period beginning on the date such certification is received.

"(B) EXTENSIONS OF PERIOD.—The 60-day period may be extended for additional 60-day periods upon receipt by the Federal Reserve bank of additional written certifications under subparagraph (A) with respect to each such additional period.

"(C) AUTHORITY TO ISSUE A CERTIFICATE OF VIABILITY MAY NOT BE DELEGATED.—The authority of the head of any agency to issue a written certification of viability under this paragraph may not be delegated to any other person.

"(D) EXTENDED ADVANCES SUBJECT TO PARAGRAPH (3).—Notwithstanding paragraph (1), an undercapitalized institution which does not have a certificate of viability in effect under this paragraph may have advances outstanding for more than 60 days in any 120-day period if the Board elects to treat—

"(i) such institution as a level 5 depository institution under paragraph (3); and

"(ii) any such advance as an advance described in subparagraph (A)(i) of paragraph (3).

"(3) ADVANCES TO LEVEL 5 DEPOSITORY INSTITUTIONS.—

"(A) LIABILITY FOR INCREASED COSTS.—Notwithstanding any other provision of this section, if—

"(i) in the case of any level 5 depository institution (as defined in section 38 of the Federal Deposit Insurance Act)—

"(I) any advance under this section to such institution is outstanding without payment having been demanded as of the end of the 5-day period beginning on the date the institution becomes a level 5 depository institution; or

"(II) any new advance is made to such institution under this section after the end of such period; and

"(ii) after the end of such 5-day period, any deposit insurance fund in the Federal Deposit Insurance Corporation incurs costs in excess of the cost of liquidating such institution as of the end of such period,

the excess cost shall be an obligation of the Board to the affected deposit insurance fund, without regard to the terms of the advance or any collateral pledged to secure the advance.

"(B) LIMITATION ON EXCESS COST.—The liability of the Board under subparagraph (A) for the amount of any excess cost described in such subparagraph shall not exceed the amount of the loss the Board or any Federal Reserve bank would have realized on the increases in the amount of advances made after the 5-day period referred to in subparagraph (A) as if such increased advances had not been secured.

"(C) SEMIANNUAL ASSESSMENTS ON FEDERAL RESERVE BANKS TO PAY OBLIGATION.—The amount of any liability of the Board to the Federal Deposit Insurance Corporation shall be paid by the Board from the proceeds of semiannual assessments which the Board may impose on the net earnings of the Federal Reserve banks.

"(4) NO OBLIGATION TO MAKE ADVANCES.—A Federal Reserve bank shall have no obligation to make, increase, renew, or extend any advance or discount under this Act to any depository institution.

"(5) PERMISSIBLE ADVANCES TO AVOID SYSTEMIC RISK.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, any Federal Reserve bank may make advances to an undercapitalized depository institution under this section if the Secretary of the Treasury determines in writing, upon the recommendation of the Board, that the advances are necessary to prevent a severe adverse effect on a regional or the national economy.

"(B) LIABILITY FOR INCREASED COST.—To the extent that any advance pursuant to a determination of the Secretary of the Treasury under subparagraph (A) to any depository institution causes any deposit insurance fund in the Federal Deposit Insurance Corporation to incur costs in excess of the cost of liquidating such institution as of the first day of such advance, such excess cost shall be an obligation of the United States.

"(C) NOTICE.—The Secretary of the Treasury shall provide a written notice of each determination under subparagraph (A) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate and each notice shall contain a description of the basis for the determination.

"(6) DEFINITIONS.—

"(A) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate federal banking agency' has the meaning given such term in section 3(q) of the Federal Deposit Insurance Act.

"(B) CRITICAL CAPITAL LEVEL.—The term 'critical capital level' has the same meaning given to such term in section 38 of the Federal Deposit Insurance Act.

"(C) DEPOSITORY INSTITUTION.—The term 'depository institution' has the meaning given to such term in section 19(b)(1)(A).

"(D) UNDERCAPITALIZED DEPOSITORY INSTITUTION.—The term 'undercapitalized depository institution' means any depository institution which—

"(i) is not in compliance with all currently applicable capital standards; or

"(ii) has a composite CAMEL rating of 5 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution.

"(E) VIABLE DEPOSITORY INSTITUTION.—The term 'viable depository institution' means any depository institution which the appropriate Federal banking agency or the Board determines, giving due regard to the economic conditions and circumstances in the marketplace in which the institution operates, has capital in excess of the critical capital level and is not expected to fall below the critical capital level or be placed in conservatorship or receivership.".

(c) CONFORMING AMENDMENT.—Section 11 of the Federal Reserve Act is amended by adding the following new subsection:

"(n) To examine, at the Board's discretion, any depository institution, and any affiliate of such depository institution, in connection with any advance to, any discount of any instrument for, or any request for any such advance or discount by, such depository institution under this Act.".

(d) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect at the end of the 2-year period beginning on the date of the enactment of this Act.

SEC. 143. NO ASSISTANCE TO TROUBLED INSTITUTION WITHOUT REMOVING MANAGEMENT AND REPUDIATING SHAREHOLDERS CLAIMS.

Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended by inserting after paragraph (11) (as so redesignated by section 141(e) of this title) the following new paragraph:

"(12) ACTIONS REQUIRED IF ASSISTANCE IS PROVIDED.—

"(A) IN GENERAL.—Upon providing any assistance under this subsection to or on behalf of any insured depository institution and in addition to any other action or condition the Corporation may take or impose, the Corporation shall—

"(i) remove the board of directors of such institution; and

"(ii) treat the claim of any shareholder against the institution with respect to any share or other capital investment of such shareholder in the institution as if such institution had been closed.

"(B) PREEMPTION OF STATE LAW.—The requirements of this paragraph, and the duty of the Corporation to carry out such requirements, shall preempt any right of any shareholder in any insured depository institution under the law of any State.

"(C) WAIVER AUTHORITY.—

"(i) IN GENERAL.—The Corporation may waive the requirements of subparagraph (A)(i) for any person upon a written finding that such waiver would lessen the risk to the Corporation posed by the insured depository institution provided assistance.

"(ii) AUTHORITY LIMITED TO BOARD OF DIRECTORS.—The authority to waive the requirements of subparagraph (A)(i) may not be delegated by the Board of Directors.

"(iii) PUBLICATION OF WAIVER.—The Board of Directors shall publish a notice in the Federal Register of any waiver granted under this subparagraph and any amendment made by the Board to any such waiver.".

Subtitle F—Federal Insurance for State Chartered Depository Institutions

SEC. 151. SHORT TITLE.

This subtitle may be cited as the "Uniform Depositor Protection Act of 1991".

SEC. 152. FEDERAL DEPOSIT INSURANCE REQUIRED FOR STATE CHARTERED BANKS, SAVINGS ASSOCIATIONS, AND CREDIT UNIONS.

(a) IN GENERAL.—After the end of the 2-year period beginning on the date of the enactment of this Act, no State depository institution or State credit union may accept deposits unless such depository institution or credit union is an insured depository institution or an insured credit union, as the case may be.

(b) DEFINITIONS.—For purposes of this section—

(1) STATE DEPOSITORY INSTITUTION.—The term "State depository institution" has the meaning given to such term by section 3(c)(5) of the Federal Deposit Insurance Act.

(2) STATE CREDIT UNION.—The term "State credit union"—

(A) has the meaning given to such term by section 101(6) of the Federal Credit Union Act; and

(B) includes—

(i) any corporate credit union; and

(ii) any member of the Central Liquidity Facility (as such terms are defined in section 302 of the Federal Credit Union Act).

(3) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term by section 3(c)(2) of the Federal Deposit Insurance Act.

(4) INSURED CREDIT UNION.—The term "insured credit union" has the meaning given to such term by section 101(7) of the Federal Credit Union Act.

TITLE II—REGULATORY IMPROVEMENT

Subtitle A—Regulation of Foreign Banks

SEC. 201. SHORT TITLE.

This subtitle may be cited as the "Foreign Bank Supervision Enhancement Act of 1991".

SEC. 202. REGULATION OF FOREIGN BANK OPERATIONS.

(a) ESTABLISHMENT AND TERMINATION OF FOREIGN BANK OFFICES IN THE UNITED STATES.—Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by striking subsection (d) and inserting the following new subsections:

"(d) ESTABLISHMENT OF FOREIGN BANK OFFICES IN THE UNITED STATES.—

"(1) PRIOR APPROVAL REQUIRED.—No foreign bank may establish a branch or an agency, or acquire ownership or control of a commercial lending company, without the prior approval of the Board.

"(2) STANDARDS FOR APPROVAL.—In acting on any application under paragraph (1), the Board may take into account—

"(A) whether the foreign bank engages directly in the business of banking outside the United States and is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country;

"(B) whether the appropriate authorities in the home country of the foreign bank have consented to the proposed establishment of a branch, agency or commercial lending company in the United States by the foreign bank;

"(C) the financial and managerial resources of the foreign bank, including the bank's experience and capacity to engage in international banking;

"(D) whether the foreign bank has provided the Board with adequate assurances that the bank will make available to the Board such information on the operations or activities of the foreign bank and any affiliate of the bank that the Board deems necessary to determine and enforce compliance with this Act, the Bank Holding Company Act of 1956, and other applicable Federal law; and

"(E) whether the foreign bank and the United States affiliates of the bank are in compliance with applicable United States law.

"(3) ESTABLISHMENT OF CONDITIONS.—Consistent with the standards for approval in paragraph (2), the Board may impose such conditions on its approval under this subsection as it deems necessary.

"(e) TERMINATION OF FOREIGN BANK OFFICES IN THE UNITED STATES.—

"(1) STANDARDS FOR TERMINATION.—The Board, after notice and opportunity for hearing and notice to any appropriate State bank supervisor, may order a foreign bank that operates a State branch or agency or commercial lending company subsidiary in the United States to terminate the activities of such branch, agency, or subsidiary if the Board finds that—

"(A) there is reasonable cause to believe that such foreign bank, or any affiliate of such foreign bank, has committed a violation of law or engaged in an unsafe or unsound banking practice in the United States; and

"(B) as a result of such violation or practice, the continued operation of the foreign bank's branch, agency or commercial lending company subsidiary in the United States would not be consistent with the public interest or with the purposes of this Act, the Bank Holding Company Act of 1956, or the Federal Deposit Insurance Act.

"(2) DISCRETION TO DENY HEARING.—The Board may issue an order under paragraph (1) without providing for an opportunity for a hearing if the Board determines that expeditious action is necessary in order to protect the public interest.

"(3) EFFECTIVE DATE OF TERMINATION ORDER.—An order issued under paragraph (1) shall take effect before the end of the 120-day period beginning on the date such order is issued unless the Board extends such period.

"(4) COMPLIANCE WITH STATE AND FEDERAL LAW.—Any foreign bank required to terminate activities conducted at offices or subsidiaries in the United States pursuant to this subsection shall comply with the requirements of applicable Federal and State law with respect to procedures for the closure or dissolution of such offices or subsidiaries.

"(5) RECOMMENDATION TO AGENCY FOR TERMINATION OF A FEDERAL BRANCH OR AGENCY.—The Board may transmit to the Comptroller of the Currency a recommendation that the license of any Federal branch or Federal agency of a foreign bank be terminated in accordance with section 4(i) if the Board has reasonable cause to believe that such foreign bank or any affiliate of such foreign bank has engaged in conduct for which the activities of any State branch or agency may be terminated under paragraph (1).

"(6) ENFORCEMENT OF ORDERS.—

"(A) IN GENERAL.—In the case of contumacy of any office or subsidiary of the foreign bank against which the Board or, in the case of an order issued under section 4(i), the Comptroller of the Currency has issued an order under paragraph (1) or a refusal by such office or subsidiary to comply with such order, the Board or the Comptroller of the Currency may invoke the aid of the district court of the United States within the jurisdiction of which the office or subsidiary is located.

"(B) COURT ORDER.—Any court referred to in subparagraph (A) may issue an order requiring compliance with an order issued under paragraph (1).

"(f) JUDICIAL REVIEW.—

"(1) JURISDICTION OF UNITED STATES COURTS OF APPEALS.—Any foreign bank—

"(A) whose application under subsection (d) or section 10(a) has been disapproved by the Board;

"(B) against which the Board has issued an order under subsection (e) or section 10(b); or

"(C) against which the Comptroller of the Currency has issued an order under section 4(i) of this Act,

may obtain a review of such order in the United States court of appeals for any circuit in which such foreign bank operates a branch, agency, or commercial lending company that has been required by such order to terminate its activities, or in the United States Court of Appeals for the District of Columbia Circuit, by filing a petition for review in the court before the end of the 30-day period beginning on the date the order was issued.

"(2) SCOPE OF JUDICIAL REVIEW.—Section 706 of title 5, United States Code, (other than paragraph (2)(F) of such section) shall apply with respect to any review under paragraph (1).

"(g) CONSULTATION WITH STATE BANK SUPERVISOR.—The Board shall request and consider any views of the appropriate State bank supervisor with respect to any application or action under subsection (d) or (e).".

(b) STANDARDS FOR APPROVAL OF FEDERAL BRANCHES AND AGENCIES.—Section 4(a) of the International Banking Act of 1978 (12 U.S.C. 3102(a)) is amended—

(1) by striking "(a) Except as provided in section 5," and inserting "(a) ESTABLISHMENT AND OPERATION OF FEDERAL BRANCHES AND AGENCIES.—

"(1) INITIAL FEDERAL BRANCH OR AGENCY.—Except as provided in section 5,"; and

(2) by adding at the end the following new paragraph:

"(2) BOARD CONDITIONS REQUIRED TO BE INCLUDED.—In considering any application for approval under this subsection, the Comptroller of the Currency shall include any condition imposed by the Board under section 7(d)(3) as a condition for the approval of such application by the agency.".

(c) STANDARDS FOR APPROVAL OF ADDITIONAL FEDERAL BRANCHES AND AGENCIES.—Section 4(h) of the International Banking Act of 1978 (12 U.S.C. 3102(h)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking "(h) A foreign bank" and inserting "(h) ADDITIONAL BRANCHES OR AGENCIES.—

"(1) APPROVAL OF AGENCY REQUIRED.—A foreign bank"; and

(3) by adding at the end the following new paragraph:

"(2) NOTICE TO AND COMMENT BY BOARD.—The Comptroller of the Currency shall provide the Board with notice and an opportunity for comment on any application to establish an additional Federal branch or Federal agency under this subsection.".

(d) DISAPPROVAL FOR FAILURE TO AGREE TO PROVIDE NECESSARY INFORMATION.—Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking "(c) The Board shall" and inserting "(c) FACTORS FOR CONSIDERATION BY BOARD.—

"(1) COMPETITIVE FACTORS.—The Board shall";

(3) by striking "In every case" and inserting "(2) BANKING AND COMMUNITY FACTORS.—In every case";

(4) by striking "community to be served. Notwithstanding any other provision of law" and inserting "community to be served.

"(4) TREATMENT OF CERTAIN BANK STOCK LOANS.— Notwithstanding any other provision of law"; and

(5) by inserting after paragraph (2) (as so designated by paragraph (3) of this subsection) the following new paragraph:

"(3) SUPERVISORY FACTORS.—The Board shall disapprove any application under this section by any company if—

"(A) the company fails to provide the Board with adequate assurances that the company will make available to the Board such information on the operations or activities of the company, and any affiliate of the company, as the Board determines to be appropriate to determine and enforce compliance with this Act; or

"(B) in the case of an application involving a foreign bank, the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the bank's home country.".

(e) CONFORMING AMENDMENTS.—

(1) AFFILIATE DEFINED.—Section 1(b)(13) of the International Banking Act of 1978 (12 U.S.C. 3101(13)) is amended by inserting "'affiliate,'" after "the terms" the 1st place such term appears.

(2) DEFINITIONS.—Section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101(b)) is amended—

(A) by striking "and" at the end of paragraph (13);

(B) by striking the period at the end of paragraph (14) and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

"(15) the term 'representative office' means any office of a foreign bank which is located in any State and is not a Federal branch, Federal agency, State branch, State agency, or subsidiary of a foreign bank;

"(16) the term 'office' means any branch, agency, or representative office; and

"(17) the term 'State bank supervisor' has the meaning given to such term in section 3 of the Federal Deposit Insurance Act.".

SEC. 203. CONDUCT AND COORDINATION OF EXAMINATIONS.

(a) AUTHORITY OF BOARD TO CONDUCT AND COORDINATE EXAMINATIONS.—Section 7(c) of the International Banking Act of 1978 (12 U.S.C. 3105(b)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) EXAMINATION OF BRANCHES, AGENCIES, AND AFFILIATES.—

"(A) IN GENERAL.—The Board may examine each branch or agency of a foreign bank, each commercial lending company or bank controlled by 1 or more foreign banks or 1 or more foreign companies that control a foreign bank, and other office or affiliate of a foreign bank conducting business in any State.

"(B) COORDINATION OF EXAMINATIONS.—

"(i) IN GENERAL.—The Board shall coordinate examinations under this paragraph with the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and appropriate State bank supervisors to the extent such coordination is possible.

"(ii) SIMULTANEOUS EXAMINATIONS.—The Board may request simultaneous examinations of each office of a foreign bank and each affiliate of such bank operating in the United States.

"(C) ANNUAL ON-SITE EXAMINATION.—Each branch or agency of a foreign bank shall be examined at least once during each 12-month period (beginning on the date the most recent examination of such branch or agency ended) in an on-site examination."; and

(2) in paragraph (2), by inserting "REPORTING REQUIREMENTS.—" before "Each branch".

(b) COORDINATION OF EXAMINATIONS.—Section 4(b) of the International Banking Act of 1978 (12 U.S.C. 3102(b)) is amended by adding at the end thereof the following new sentence: "The Comptroller of the Currency shall coordinate examinations of Federal branches and agencies of foreign banks with examinations conducted by the Board under section 7(c)(1) and, to the extent possible, shall participate in any simultaneous examinations of the United States operations of a foreign bank requested by the Board under such section.".

(c) PARTICIPATION IN COORDINATED EXAMINATIONS.—

(1) IN GENERAL.—Section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) EXAMINATION OF INSURED STATE BRANCHES.—The Board of Directors shall—

"(A) coordinate examinations of insured State branches of foreign banks with examinations conducted by the Board of Governors of the Federal Reserve System under section 7(c)(1) of the International Banking Act of 1978; and

"(B) to the extent possible, participate in any simultaneous examination of the United States operations of a foreign bank requested by the Board under such section.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Paragraph (6) of section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) (as so redesignated under paragraph (1) of this subsection) by striking "or (4)" and inserting "(4), or (5)".

SEC. 204. SUPERVISION OF THE REPRESENTATIVE OFFICES OF FOREIGN BANKS.

Section 10 of the International Banking Act of 1978 (12 U.S.C. 3107) is amended to read as follows:

"SEC. 10. REPRESENTATIVE OFFICES.

"(a) PRIOR APPROVAL TO ESTABLISH REPRESENTATIVE OFFICES.—

"(1) IN GENERAL.—No foreign bank may establish a representative office without the prior approval of the Board.

"(2) STANDARDS FOR APPROVAL.—In acting on any application under this paragraph to establish a representative office, the Board shall take into account the standards contained in section 7(d)(2) and may impose any additional requirements that the Board determines to be necessary to carry out the purposes of this Act.

"(b) TERMINATION OF REPRESENTATIVE OFFICES.—The Board may order the termination of the activities of a representative office of a foreign bank on the basis of the standards, procedures, and requirements applicable under paragraphs (1), (2), and (3) of section 7(d) with respect to branches and agencies.

"(c) EXAMINATIONS.—The Board may make examinations of each representative office of a foreign bank, the cost of which shall be assessed against and paid by such foreign bank.

"(d) COMPLIANCE WITH STATE LAW.—This Act does not authorize the establishment of a representative office in any State in contravention of State law.".

SEC. 205. REPORTING OF STOCK LOANS.

Section 7(j)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(9)) is amended to read as follows:

"(9) REPORTING OF STOCK LOANS.—

"(A) REPORT REQUIRED.—Any financial institution and any affiliate of any financial institution that has credit outstanding to any person or group of persons which is secured, directly or indirectly, by shares of an insured depository institution shall file a consolidated report with the appropriate Federal banking agency for such insured depository institution if the extensions of credit by the financial institution and such institution's affiliates, in the aggregate, are secured, directly or indirectly, by 25 percent or more of any class of shares of the same insured depository institution.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) FINANCIAL INSTITUTION.—The term 'financial institution' means any insured depository institution and any foreign bank that is subject to the provisions of the Bank Holding Company Act of 1956 by virtue of section 8(a) of the International Banking Act of 1978.

"(ii) CREDIT OUTSTANDING.—The term 'credit outstanding' includes—

"(I) any loan or extension of credit,

"(II) the issuance of a guarantee, acceptance, or letter of credit, including an endorsement or standby letter of credit, and

"(III) any other type of transaction that extends credit or financing to the person or group of persons.

"(iii) GROUP OF PERSONS.—The term 'group of persons' includes any number of persons that the financial institution reasonably believes—

"(I) are acting together, in concert, or with one another to acquire or control shares of the same insured depository institution, including an acquisition of shares of the same insured depository institution at approximately the same time under substantially the same terms; or

"(II) have made, or propose to make, a joint filing under section 13 of the Securities Exchange Act of 1934 regarding ownership of the shares of the same insured depository institution.

"(C) INCLUSION OF SHARES HELD BY THE FINANCIAL INSTITUTION.—Any shares of the insured depository institution held by the financial institution or any of its affiliates as principal shall be included in the calculation of the number of shares in which the financial institution or its affiliates has a security interest for purposes of subparagraph (A).

"(D) REPORT REQUIREMENTS.—

"(i) TIMING OF REPORT.—The report required under this paragraph shall be a consolidated report on behalf of the financial institution and all affiliates of the institution, and shall be filed in writing within 30 days of the date on which the financial institution or any such affiliate first believes that the security for any outstanding credit consists of 25 percent or more of any class of shares of an insured depository institution.

"(ii) CONTENT OF REPORT.—The report under this paragraph shall indicate the number and percentage of shares securing each applicable extension of credit, the identity of the borrower, and the number of shares held as principal by the financial institution and any affiliate of such institution.

"(iii) COPY TO OTHER AGENCIES.—A copy of any report under this paragraph shall be filed with the appropriate Federal banking agency for the financial institution (if other than the agency receiving the report under this paragraph).

"(iv) OTHER INFORMATION.—Each appropriate Federal banking agency may require any additional information necessary to carry out the agency's supervisory responsibilities.

"(E) EXCEPTIONS.—

"(i) EXCEPTION WHERE INFORMATION PROVIDED BY BORROWER.—Notwithstanding subparagraph (A), a financial institution and the affiliates of such institution shall not be required to report a transaction under this paragraph if the person or group of persons referred to in such subparagraph has disclosed the amount borrowed from such institution or affiliate and the security interest of the institution or affiliate to the appropriate Federal banking agency for the insured depository institution in connection with a notice filed under this subsection, an application filed under the Bank Holding Company Act of 1956, section 10 of the Home Owners' Loan Act, or any other application filed with the appropriate Federal banking agency for the insured depository institution as a substitute for a notice under this subsection, such as an application for deposit insurance, membership in the Federal Reserve System, or a national bank charter.

"(ii) EXCEPTION FOR SHARES OWNED FOR MORE THAN 1 YEAR.—Notwithstanding subparagraph (A), a financial institution and any affiliate of such institution shall not be required to report a transaction involving—

"(I) a person or group of persons that has been the owner or owners of record of the stock for a period of 1 year or more; or

"(II) stock issued by a newly chartered bank before the bank's opening.".

SEC. 206. COOPERATION WITH FOREIGN SUPERVISORS.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following new section:

"SEC. 15. COOPERATION WITH FOREIGN SUPERVISORS.

"(a) DISCLOSURE OF SUPERVISORY INFORMATION TO FOREIGN SUPERVISORS.—Notwithstanding any other provision of law, the Board, Comptroller of the Currency, Federal Deposit Insurance Corporation, and Director of the Office of Thrift Supervision may disclose information obtained in the course of exercising supervisory or examination authority to any foreign bank regulatory or supervisory authority if the Board, Comptroller, Corporation, or Director determines that such disclosure is appropriate and will not prejudice the interests of the United States.

"(b) REQUIREMENT OF CONFIDENTIALITY.—Before making any disclosure of any information to a foreign authority, the Board, Comptroller of the Currency, Federal Deposit Insurance Corporation, and Director of the Office of Thrift Supervision shall obtain, to the extent necessary, the agreement of such foreign authority to maintain the confidentiality of such information to the extent possible under applicable law.".

SEC. 207. APPROVAL REQUIRED FOR ACQUISITION BY FOREIGN BANKS OF SHARES OF UNITED STATES BANKS.

Section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a)) is amended by striking "thereto" and all that follows through the period and inserting "to such provisions.".

SEC. 208. PENALTIES.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by inserting after section 15 (as added by section 206 of this subtitle) the following new section:

"SEC. 16. PENALTIES.

"(a) CIVIL MONEY PENALTY.—

"(1) IN GENERAL.—Any foreign bank, and any office or subsidiary of a foreign bank, that violates, and any individual who participates in a violation of, any provision of this Act, or any regulation prescribed or order issued under this Act, shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation continues.

"(2) ASSESSMENT PROCEDURES.—Any penalty imposed under paragraph (1) may be assessed and collected by the Board or the Comptroller of the Currency in the manner provided in subparagraphs (E), (F), (G), (H), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section), and any such assessments shall be subject to the provisions of such section.

"(3) HEARING PROCEDURE.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this section.

"(4) DISBURSEMENT.—All penalties collected under authority of this section shall be deposited into the Treasury.

"(5) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes taking any action (alone or with others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(6) REGULATIONS.—The Board and the Comptroller of the Currency shall each prescribe regulations establishing such procedures as may be necessary to carry out this section.

"(b) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a foreign bank, or any office or subsidiary of a foreign bank (including a separation caused by the termination of a location in the United States), shall not affect the jurisdiction or authority of the Board or the Comptroller of the Currency to issue any notice or to proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be an institution-affiliated party with respect to such foreign bank or such office or subsidiary of a foreign bank (whether such date occurs on, before, or after the date of the enactment of the Foreign Bank Supervision Enhancement Act of 1991).

"(c) PENALTY FOR FAILURE TO MAKE REPORTS.—

"(1) FIRST TIER.—Any foreign bank, or any office or subsidiary of a foreign bank, that—

"(A) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such error—

"(i) fails to make, submit, or publish such reports or information as may be required under this Act or under regulations prescribed by the Board or the Comptroller of the Currency under this Act, within the period of time specified by the agency; or

"(ii) submits or publishes any false or misleading report or information; or

"(B) inadvertently transmits or publishes any report that is minimally late,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. The foreign bank, or the office or subsidiary of a foreign bank, shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late.

"(2) SECOND TIER.—Any foreign bank, or any office or subsidiary of a foreign bank, that—

"(A) fails to make, submit, or publish such reports or information as may be required under this Act or under regulations prescribed by the Board or the Comptroller of the Currency pursuant to this Act, within the time period specified by such agency; or

"(B) submits or publishes any false or misleading report or information,

in a manner not described in paragraph (1) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

"(3) THIRD TIER.—Notwithstanding paragraph (2), if any company knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (2) submits or publishes any false or misleading report or information, the Board or the Comptroller of the Currency may, in the Board's or Comptroller's discretion, assess a penalty of not more than $1,000,000 or 1 percent of total assets of such foreign bank, or such office or subsidiary of a foreign bank, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

"(4) ASSESSMENT OF PENALTIES.—Any penalty imposed under paragraph (1), (2), or (3) shall be assessed and collected by the Board or the Comptroller of the Currency in the manner provided in subsection (a)(2) (for penalties imposed under such subsection) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.

"(5) HEARING PROCEDURE.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.".

SEC. 209. POWERS OF AGENCIES RESPECTING APPLICATIONS, EXAMINATIONS, AND OTHER PROCEEDINGS.

Section 13(b) of the International Banking Act of 1978 (12 U.S.C. 3108(b)) is amended—

(1) by striking "(b) In addition to" and inserting "(b) ENFORCEMENT.—

"(1) IN GENERAL.—In addition to";

(2) by adding at the end the following new paragraphs:

"(2) AUTHORITY TO ADMINISTER OATHS; SUBPOENA POWER.—In the course of, or in connection with, an application, examination, investigation, or other proceeding under this Act, the Board, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, as the case may be, any member of the Board or of the Board of Directors of the Corporation, and any designated representative of the Board, Comptroller, or Corporation (including any person designated to conduct any hearing under this Act) may—

"(A) administer oaths and affirmations and take or cause to be taken depositions; and

"(B) issue, revoke, quash, or modify any subpoena, including any subpoena requiring the attendance and testimony of a witness or any subpoenas duces tecum.

"(3) ADMINISTRATIVE ASPECTS OF SUBPOENAS.—

"(A) ATTENDANCE AND PRODUCTION AT DESIGNATED SITE.—The attendance of any witness and the production of any document pursuant to a subpoena under paragraph (2) may be required at the place designated in the subpoena from any place in any State (as defined in section 3(a)(3) of the Federal Deposit Insurance Act) or other place subject to the jurisdiction of the United States.

"(B) SERVICE OF SUBPOENA.—Service of a subpoena issued under this subsection may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Board, Comptroller of the Currency, or Federal Deposit Insurance Corporation may by regulation or otherwise provide.

"(C) FEES AND TRAVEL EXPENSES.—Witnesses subpoenaed under this subsection shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

"(4) CONTUMACY OR REFUSAL.—

"(A) IN GENERAL.—In the case of contumacy of any person issued a subpoena under this subsection or a refusal by such person to comply with such subpoena, the Board, Comptroller of the Currency, or Federal Deposit Insurance Corporation, or any other party to proceedings in connection with which subpoena was issued may invoke the aid of—

"(i) the United States District Court for the District of Columbia, or

"(ii) any district court of the United States within the jurisdiction of which the proceeding is being conducted or the witness resides or carries on business.

"(B) COURT ORDER.—Any court referred to in subparagraph (A) may issue an order requiring compliance with a subpoena issued under this subsection.

"(5) EXPENSES AND FEES.—Any court having jurisdiction of any proceeding instituted under this subsection may allow any party to such proceeding such reasonable expenses and attorneys' fees as the court deems just and proper.

"(6) CRIMINAL PENALTY.—Any person who willfully fails or refuses to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records in accordance with any subpoena under this subsection shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both. Each day during which any such failure or refusal continues shall be treated as a separate offense.".

SEC. 210. CLARIFICATION OF MANAGERIAL STANDARDS IN BANK HOLDING COMPANY ACT OF 1956.

Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) (as amended by section 202(d) of this subtitle) is amended by adding at the end the following new paragraph:

"(5) MANAGERIAL RESOURCES.—Consideration of the managerial resources of a company or bank under paragraph (2) shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or bank.".

Subtitle B—Customer and Consumer Provisions

SEC. 221. PAPERWORK REDUCTION AND IMPROVEMENTS IN ADMINISTRATION OF COMMUNITY REINVESTMENT ACT OF 1977.

(a) REPORT TO CONGRESS.—

(1) IN GENERAL.—Before the end of the 120-day period beginning on the date of the enactment of this Act, each appropriate Federal banking agency shall submit to the Banking, Finance and Urban Affairs Committee of the House of Representatives and the Banking, Housing, and Urban Affairs Committee of the Senate a report containing the following:

(A) Identification of the documentation deemed by each agency to be necessary to properly carry out examinations under the Community Reinvestment Act of 1977.

(B) Recommendations for steps to reduce paperwork required of insured depository institutions in connection with examinations for compliance with the Community Reinvestment Act of 1977.

(C) Recommendations for improvements in the administration and enforcement of the Community Reinvestment Act of 1977.

(2) CONSIDERATIONS.—

(A) ASSET SIZE.—In preparing the recommendations for the report under paragraph (1), the appropriate Federal banking agency shall take into consideration the asset size of insured depository institutions and the administrative resources available to such institutions in developing recommendations for reduction of paperwork.

(B) CONSISTENCY OF RECOMMENDATION WITH PURPOSES OF THE ACT.—The recommendations for reduced paperwork contained in the report under paragraph (1) shall be consistent with the purposes of the Community Reinvestment Act of 1977 and the responsibility of the appropriate Federal banking agency to properly evaluate each insured depository institution performance under the Act.

(b) GAO STUDY AND RECOMMENDATIONS FOR IMPROVEMENTS AND COST SAVINGS.—

(1) REQUIRED.—The Comptroller General of the United States shall conduct a study of the examination processes used by the appropriate Federal banking agencies to evaluate the compliance with the Community Reinvestment Act of 1977.

(2) FACTORS TO BE CONSIDERED.—The study conducted under paragraph (1) shall include the following analyses:

(A) An analysis of the documentation required of insured depository institutions by each appropriate Federal banking agency in carrying out such examinations referred to in paragraph (1).

(B) An analysis of to what extent, if any, such documentation may vary according to the asset size of insured depository institutions.

(C) An analysis of the cost of such documentation based on a representative sample of various insured depository institutions by asset size.

(D) An analysis of the effect of such documentation on the costs to the agency in carrying out an examination under section 804 of the Community Reinvestment Act of 1977.

(E) An analysis of the number of—

(i) applications which have been filed by insured depository institutions which are subject to evaluation under provisions of the Community Reinvestment Act of 1977;

(ii) such applications which have been subject to formal protests;

(iii) such protests which have been granted public hearings by each of the banking agencies; and

(iv) such applications which have been denied on the grounds of unsatisfactory performance under the Community Reinvestment Act of 1977.

(F) An analysis of the time required to process applications subject to evaluation under the Community Reinvestment Act of 1977.

(G) An analysis of the methods utilized by each banking agency in processing protests filed under the Community Reinvestment Act of 1977.

(H) An analysis of the rating systems used by each appropriate Federal banking agency under the Community Reinvestment Act of 1977, together with a detailed description of any inconsistencies between the rating systems used by each such agency and the weight given the ratings in processing and evaluating protests filed under such Act.

(I) An analysis of the factors considered in evaluating the performance of credit card banks and other nontraditional institutions under the Community Reinvestment Act of 1977.

(3) REPORT.—Before the end of the 120-day period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report containing the findings and conclusions made by the Comptroller General in connection with the study required under paragraph (1).

(4) RECOMMENDATIONS.—The report submitted under paragraph (3) shall contain any recommendations for legislative or administrative action the Comptroller General may determine to be appropriate, including any legislative recommendations relating to—

(A) proposals to make administration and enforcement of the the Community Reinvestment Act of 1977 more effective and consistent with the purposes of the Act; and

(B) proposals to reduce costs associated with examinations under, and the enforcement of, such Act.

(c) DEFINITIONS.—For purposes of this section—

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the meaning given to such term in section 3(q) of the Federal Deposit Insurance Act.

(2) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act.

SEC. 222. ADDITIONAL FACTOR IN ASSESSING MAJORITY-OWNED INSTITUTION'S RECORD OF MEETING COMMUNITY CREDIT NEEDS.

Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended—

(1) by inserting before the first sentence the following: "(a) IN GENERAL.—"; and

(2) by adding at the end the following new subsection:

"(b) MAJORITY-OWNED INSTITUTIONS.—In assessing and taking into account, under subsection (a), the record of a nonminority-owned and nonwomen-owned financial institution, the appropriate Federal financial supervisory agency shall consider and give credit for capital investment, loan participation, and other ventures undertaken by the institution in cooperation with minority- and women-owned financial institutions and low-income credit unions that help meet the credit needs of local communities in which such institutions and credit unions are chartered.".

SEC. 223. ENFORCEMENT OF EQUAL CREDIT OPPORTUNITY ACT.

(a) PATTERN OR PRACTICE.—Section 706(g) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(g)) is amended by adding at the end the following new sentence: "Each agency referred to in paragraphs (1), (2), and (3) of section 704(a) shall refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has engaged in a pattern or practice of discouraging or denying applications for credit in violation of section 701(a). Each such agency may refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has violated section 701(a).".

(b) DAMAGES.—Section 706(h) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(h)) is amended by inserting "actual and punitive damages and" after "including".

(c) NOTICE TO HUD.—Section 706 of the Equal Credit Opportunity Act (15 U.S.C. 1691e) is amended by adding at the end the following new subsection:

"(k) NOTICE TO HUD OF VIOLATIONS.—Whenever an agency referred to in paragraph (1), (2), or (3) of section 704(a)—

"(1) has reason to believe, as a result of receiving a consumer complaint, conducting a consumer compliance examination, or otherwise, that a violation of this title has occurred;

"(2) has reason to believe that the alleged violation would be a violation of the Fair Housing Act; and

"(3) does not refer the matter to the Attorney General pursuant to subsection (g),

the agency shall notify the Secretary of Housing and Urban Development of the violation, and shall notify the applicant that the Secretary of Housing and Urban Development has been notified of the alleged violation and that remedies for the violation may be available under the Fair Housing Act.".

SEC. 224. FAIR HOUSING REPORTING.

Effective 1 year after the date of the enactment of this Act, no Federal agency shall require any institution for which the agency is the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))) to prepare, file, or maintain any form for the purpose of collection, analysis, or maintenance of appropriate data to further the purposes of, or to fulfill the requirements of, the Fair Housing Act, other than a form for data collection, analysis, or maintenance prescribed pursuant to the Home Mortgage Disclosure Act.

SEC. 225. REGULATORY BURDEN STUDY.

(a) IN GENERAL.—The Secretary of the Treasury and the head of each appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) shall each conduct a review of all laws primarily under their respective jurisdictions and all regulations prescribed by them (except with respect to the Internal Revenue Code of 1986, and all regulations, rules, and orders issued thereunder) with respect to such laws to determine whether such laws and regulations adversely affect the capital position and profitability of insured depository institutions.

(b) ADDITIONAL REVIEW REQUIRED.—The review required by subsection (a) shall include an evaluation to determine whether such laws and regulations impose duplicative paperwork and compliance requirements.

(c) REPORT REQUIRED.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Secretary of the Treasury, and the head of each appropriate Federal banking agency shall each submit a report to the Congress containing—

(1) a description of the laws and regulations that should be revised, simplified, repealed, or rescinded in order to enhance the capitalization and profitability of insured depository institutions without adversely affecting safety and soundness and consumer protection;

(2) to the extent practicable, an analysis of the costs and benefits of such laws and regulations, including those pertaining to corporate applications and filings and other reporting and recordkeeping requirements;

(3) an analysis of the cost impact and effect on safety and soundness of reducing the number of items to be reported on reports of condition of depository institutions with assets of less than $50,000,000; and

(4) an evaluation of the appropriateness of terminating recordkeeping and reporting requirements not directly related to safety and soundness.

SEC. 226. NOTICE OF SAFEGUARD EXCEPTION.

Section 604(f)(2) of the Expedited Funds Availability Act (12 U.S.C. 4003(f)(2)) is amended by inserting after subparagraph (C) the following new subparagraph:

"(D) After a depository institution has provided notice as required under subparagraphs (A), (B) and (C), no further notice shall be required until the earlier of 1 year after notice has been provided or such other time as the exception for which the notice was provided ceases to apply.".

SEC. 227. PROHIBITION ON DECEPTIVE PRACTICES RELATING TO ELECTRONIC FUND TRANSFERS FROM ACCOUNTS.

(a) IN GENERAL.—Section 907 of the Electronic Fund Transfer Act (15 U.S.C. 1693e) is amended by adding at the end the following new subsection:

"(c) PROHIBITION ON CERTAIN DECEPTIVE PRACTICES INVOLVING PREAUTHORIZED TRANSFERS FROM ACCOUNTS.—

"(1) IN GENERAL.—No preauthorized electronic fund transfer, or any other electronic fund transfer, from any consumer's account may be made on the basis of any endorsement, deposit, transfer, or other form of negotiation of any check by the consumer.

"(2) NO PROVISION OF ANY CHECK MAY CONSTITUTE AUTHORIZATION OF CONSUMER.—No provision contained on any check which is received by a receiving depository institution and is endorsed, deposited, transferred, or otherwise negotiated by any consumer may be treated as constituting the authorization of the consumer to make any preauthorized electronic fund transfer, or any other electronic fund transfer, from the consumer's account.

"(3) REGULATIONS.—The Board shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.

"(4) CHECK DEFINED.—For purposes of this subsection, the term 'check' has the meaning given to such term in section 602(7) of the Expedited Funds Availability Act.

"(5) RECEIVING DEPOSITORY INSTITUTION.—For purposes of this subsection, the term 'receiving depository institution' has the meaning given to such term in section 602(20) of the Expedited Funds Availability Act.".

(b) SCOPE OF APPLICATION.—The amendment made by subsection (a) shall apply with respect to any electronic fund transfer on or after the date of the enactment of this Act without regard to the date of the endorsement, deposit, transfer, or other form of negotiation of the check which, but for the enactment of such amendment, would constitute the authorization of the consumer to make any such transfer.

SEC. 228. DEPOSITS AT NONPROPRIETARY AUTOMATED TELLER MACHINES.

(a) IN GENERAL.—Section 603(e) of the Expedited Funds Availability Act (12 U.S.C. 4002(e)) is amended by striking paragraphs (1)(C) and (2).

(b) CONFORMING AMENDMENTS.—The Expedited Funds Availability Act (12 U.S.C. 4001 et seq.) is amended—

(1) in section 603(e) (12 U.S.C. 4002(e))—

(A) by striking the heading for paragraph (1) and inserting the following:

"(1) NONPROPRIETARY ATM.—"; and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(2) in section 604(a)(2) (12 U.S.C. 4003(a)(2)) by striking "and (2)".

SEC. 229. NOTICE OF BRANCH CLOSURE.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 38 (as added by section 131 of this Act) the following new section:

"SEC. 39. NOTICE OF BRANCH CLOSURE.

"(a) NOTICE TO APPROPRIATE FEDERAL BANKING AGENCY.—

"(1) IN GENERAL.—An insured depository institution which proposes to close any branch shall submit a notice of the proposed closing to the appropriate Federal banking agency not later than the first day of the 90-day period ending on the date proposed for the closing.

"(2) CONTENTS OF NOTICE.—A notice under paragraph (1) shall include—

"(A) a detailed statement of the reasons for the decision to close the branch; and

"(B) statistical or other information in support of such reasons.

"(b) NOTICE TO CUSTOMERS.—

"(1) IN GENERAL.—An insured depository institution which proposes to close a branch shall provide notice of the proposed closing to its customers.

"(2) CONTENTS OF NOTICE.—Notice under paragraph (1) shall consist of—

"(A) posting of a notice in a conspicuous manner on the premises of the branch proposed to be closed during not less than the 30-day period ending on the date proposed for that closing; and

"(B) inclusion of a notice in—

"(i) at least one of any regular account statements mailed to customers of the branch proposed to be closed, or

"(ii) in a separate mailing,

by not later than the beginning of the 90-day period ending on the date proposed for that closing.

"(c) ADOPTION OF POLICIES.—

"(1) IN GENERAL.—Each insured depository institution shall adopt policies for closings of branches of the institution.

"(2) CONTENTS OF POLICIES.—Policies adopted under this subsection by an insured depository institution may include, among other matters, the following:

"(A) IDENTIFICATION OF CANDIDATES FOR CLOSING.—A requirement that in identifying branches as candidates for closing, consideration shall be given to profitability and growth potential as indicated by, at a minimum—

"(i) deposit level and mix;

"(ii) loan level and mix;

"(iii) trends in deposits and loans;

"(iv) operating income;

"(v) operating expense and size of staff; and

"(vi) transaction volume and mix;

except that in the case of a closure of an automated teller machine, only clauses (v) and (vi) need be considered.

"(B) MARKET EVALUATION.—A requirement that in evaluating whether to close a branch, the institution shall assess the market demographics of, and the availability of competitive financial services to, the immediate market area of the branch, including assessment of—

"(i) economic trends and forecasts for the immediate market area;

"(ii) the overall coverage of the general market area of the branch, including by other branches of the institution;

"(iii) other financial institutions that serve that general market area, including locations of branches of such other institutions; and

"(iv) except in the case of a closing of an automatic teller machine, general deposit and loan trends—

"(I) at other branches of the depository institution, and

"(II) if available, at locations of competitor depository institutions that serve the general market area of the branch.

"(C) ASSESSMENT OF IMPACT.—A requirement that the following measures shall be taken to assess the impact of any decision to close a branch:

"(i) Determination of whether alternative actions could be taken to improve the profitability of the branch to make it viable on a long-term basis.

"(ii) Forecast the resulting—

"(I) account runoff, and

"(II) operating costs savings, including those resulting from reductions in staff and occupancy costs.

"(iii) Consider the impacts, if any, on surrounding neighborhoods and the actions that can be taken to minimize those impacts, including, at a minimum, by evaluation and financial consideration of other service alternatives for the market area of the branch, including—

"(I) other nearby branches, and

"(II) any appropriate changes in facilities where customers' accounts would be moved.

"(D) REVIEW AND APPROVAL.—Requiring the following reviews and approvals for all proposed branch closings:

"(i) Initiation of any such proposal by the appropriate executive officer responsible for the affected community.

"(ii) Review and approval of any recommendation of such an action by—

"(I) a regional executive officer,

"(II) the appropriate branch group manager,

"(III) the branch officer responsible for compliance with requirements of the Community Reinvestment Act of 1977,

"(IV) the officer of the institution responsible for compliance with requirements of the Community Reinvestment Act of 1977,

"(V) appropriate executive management of the institution, and

"(VI) the Board of Directors of the institution.

"(E) NOTIFICATION TO CUSTOMERS.—Compliance with the following notification procedures for all branch closings:

"(i) Making every effort before the closing to assure that those affected by the closing, including neighborhood and political groups, are given ample and appropriate notice of the proposed closing, including by posting notice of the closing in the branch lobby and at each drive-in and automatic teller machine of the branch at least 30 days before the effective date of the action.

"(ii) Except in the case of a closing of an automatic teller machine, provision of a written notice to all account holders and safe deposit box customers at the branch at least 30 days before the effective date of the action, which includes—

"(I) the effective date of the action,

"(II) the branch to which accounts will be transferred,

"(III) the location of other nearby facilities of the institution, and

"(IV) a telephone number which customers may use to obtain further information about the action.

"(F) DOCUMENTATION.—The following documentation requirements:

"(i) Maintenance of all written analyses and decision approvals related to the closing (including all customer complaints about the closing that are submitted in writing) by the officer of the institution responsible for compliance with requirements of the Community Reinvestment Act of 1977, for a period of at least 2 years after the effective date of the closing.

"(ii) Indication in all written analyses related to the closing of whether the neighborhood surrounding the branch is a low- to moderate-income area.

"(iii) Maintenance by the branch officer responsible for compliance with requirements of the Community Reinvestment Act of 1977 of all customer complaints about the closing that are submitted in writing.

"(3) BRANCH DEFINED.—For purposes of this subsection, the term 'branch' includes an automatic teller machine.".

Subtitle C—Bank Enterprise Act

SEC. 231. SHORT TITLE.

This subtitle may be cited as the "Bank Enterprise Act of 1991".

SEC. 232. REDUCED ASSESSMENT RATE FOR DEPOSITS ATTRIBUTABLE TO LIFELINE ACCOUNTS.

(a) QUALIFICATION OF LIFELINE ACCOUNTS BY FEDERAL RESERVE BOARD.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation shall establish minimum requirements for accounts providing basic transaction services for consumers at insured depository institutions in order for such accounts to qualify as lifeline accounts for purposes of this section and section 7(b)(10) of the Federal Deposit Insurance Act.

(2) FACTORS TO BE CONSIDERED.—In determining the minimum requirements under paragraph (1) for lifeline accounts at insured depository institutions, the Board and the Corporation shall consider the following factors:

(A) Whether the account is available to provide basic transaction services for individuals who maintain a balance of less than $1,000 or such other amount which the Board may determine to be appropriate.

(B) Whether any service charges or fees to which the account is subject, if any, for routine transactions do not exceed a minimal amount.

(C) Whether any minimum balance or minimum opening requirement to which the account is subject, if any, is not more than a minimal amount.

(D) Whether checks, negotiable orders of withdrawal, or similar instruments for making payments or other transfers to third parties may be drawn on the account.

(E) Whether the depositor is permitted to make more than a minimal number of withdrawals from the account each month by any means described in subparagraph (D) or any other means.

(F) Whether a monthly statement itemizing all transactions for the monthly reporting period is made available to the depositor with respect to such account or a passbook is provided in which all transactions with respect to such account are recorded.

(G) Whether depositors are permitted access to tellers at the institution for conducting transactions with respect to such account.

(H) Whether other account relationships with the institution are required in order to open any such account.

(I) Whether individuals are required to meet any prerequisite which discriminates against low-income individuals in order to open such account.

(J) Such other factors as the Board may determine to be appropriate.

(3) DEFINITIONS.—For purposes of this subsection—

(A) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

(B) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act.

(C) LIFELINE ACCOUNT.—The term "lifeline account" means any transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act) which meets the minimum requirements established by the Board under this subsection.

(b) REDUCED ASSESSMENT RATES FOR LIFELINE ACCOUNT DEPOSITS.—

(1) REPORTING LIFELINE ACCOUNT DEPOSITS.—Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) (as amended by sections 122 and 141 of this Act) is amended by redesignating paragraphs (6), (7), (8), and (9) as paragraphs (7), (8), (9), and (10), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) LIFELINE ACCOUNT DEPOSITS.—In the reports of condition required to be reported under this subsection, the deposits in lifeline accounts (as defined in section 232(a)(3)(C) of the Bank Enterprise Act of 1991) shall be reported separately.".

(2) ASSESSMENT RATES APPLICABLE TO LIFELINE DEPOSITS.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by redesignating paragraph (10) (as so redesignated by section 103(b) of this Act) as paragraph (11) and by inserting after paragraph (9) the following new paragraph:

"(10) ASSESSMENT RATE FOR LIFELINE ACCOUNT DEPOSITS.—Notwithstanding any other provision of this subsection, that portion of the average assessment base of any insured depository institution which is attributable to deposits in lifeline accounts (as reported in the institution's reports of condition pursuant to subsection (a)(6)) shall be subject to assessment at the assessment rate of 1/2 the maximum rate.".

(3) ASSESSMENT PROCEDURE.—Section 7(b)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)) is amended—

(A) by striking subclause (II) of clause (i) and inserting the following new subclause:

"(II) such Bank Insurance Fund member's average assessment base for the immediately preceding semiannual period (minus any amount taken into account under clause (iii) with respect to lifeline account deposits); and"; and

(B) by striking subclause (II) of clause (ii) and inserting the following new subclause:

"(II) such Savings Association Insurance Fund member's average assessment base for the immediately preceding semiannual period (minus any amount taken into account under clause (iii) with respect to lifeline account deposits); and"; and

(C) by adding at the end the following new clause:

"(iii) the semiannual assessment due from any Bank Insurance Fund member or Savings Association Insurance Fund member with respect to lifeline account deposits for any semiannual assessment period shall be the product of—

"(I) ½ the assessment rate applicable with respect to such deposits pursuant to paragraph (10) during that semiannual assessment period; and

"(II) the portion of such member's average assessment base for the immediately preceding semiannual period which is attributable to deposits in lifeline accounts (as reported in the institution's reports of condition pursuant to subsection (a)(6)).".

SEC. 233. ASSESSMENT CREDITS FOR QUALIFYING ACTIVITIES RELATING TO DISTRESSED COMMUNITIES.

(a) DETERMINATION OF CREDITS FOR INCREASES IN COMMUNITY ENTERPRISE ACTIVITIES.—

(1) IN GENERAL.—The Community Enterprise Assessment Credit Board established under subsection (d) shall issue guidelines for insured depository institutions eligible under this subsection for any community enterprise assessment credit with respect to any semiannual period. Such guidelines shall—

(A) designate the eligibility requirements for any institution meeting applicable capital standards to receive an assessment credit under section 7(d)(4) of the Federal Deposit Insurance Act; and

(B) determine the community enterprise assessment credit available to any eligible institution under paragraph (3).

(2) QUALIFYING ACTIVITIES.—An insured depository institution shall be eligible for any community enterprise assessment credit for any semiannual period for—

(A) any increase during such period in the amount of the assets of the institution which consist of loans and other financial assistance provided for low- and moderate-income persons in distressed communities, or enterprises involved with such neighborhoods, which the Board determines are qualified to be taken into account for purposes of this subsection; and

(B) any increase during such period in the amount of the deposits accepted from persons domiciled in the distressed community, at any office of the institution (including any branch) located in any qualified distressed community, and any increase in loans and other extensions of credit made within that community, during the semiannual period, except that in no case shall the credit for increased deposits at any institution or branch exceed the credit for increased loan activity by the bank or branch in the distressed community.

(3) AMOUNT OF ASSESSMENT CREDIT.—The amount of any community enterprise assessment credit available under section 7(d)(4) for any insured depository institution for any semiannual period shall be the amount which is equal to 5 percent, in the case of an institution which does not meet the community development organization requirements under section 235, and 15 percent, in the case of an institution which meets such requirements, (or any percentage designated under paragraph (5)) of the sum of—

(A) the amounts of assets described in paragraph (2)(A); and

(B) the amounts of deposits, loans, and other extensions of credit described in paragraph (2)(B).

(4) DETERMINATION OF QUALIFIED LOANS AND OTHER FINANCIAL ASSISTANCE.—Except as provided in paragraph (6), the types of loans and other financial assistance which the Board may determine to be qualified to be taken into account under paragraph (2)(A) for purposes of the community enterprise assessment credit, may include the following:

(A) Loans insured or guaranteed by the Secretary of Housing and Urban Development, the Secretary of the Department of Veterans Affairs, the Administrator of the Small Business Administration, and the Secretary of Agriculture.

(B) Loans or financing provided in connection with activities assisted by the Administrator of the Small Business Administration or any small business investment company and investments in small business investment companies.

(C) Loans or financing provided in connection with any neighborhood housing service program assisted under the Neighborhood Reinvestment Corporation Act.

(D) Loans or financing provided in connection with any activities assisted under the community development block grant program under title I of the Housing and Community Development Act of 1974.

(E) Loans or financing provided in connection with activities assisted under title II of the Cranston-Gonzalez National Affordable Housing Act.

(F) Loans or financing provided in connection with a homeownership program assisted under title III of the United States Housing Act of 1937 or subtitle B or C of title IV of the Cranston-Gonzalez National Affordable Housing Act.

(G) Financial assistance provided through community development corporations.

(H) Federal and State programs providing interest rate assistance for homeowners.

(I) Extensions of credit to nonprofit developers or purchasers of low-income housing and small business developments.

(J) In the case of members of any Federal home loan bank, participation in the community investment fund program established by the Federal home loan banks.

(K) Conventional mortgages targeted to low- or moderate-income persons.

(5) ADJUSTMENT OF PERCENTAGE.—The Board may increase or decrease the percentage referred to in paragraph (3) for determining the amount of any community enterprise assessment credit pursuant to such paragraph, except that the percentage established for insured depository institutions which meet the community development organization requirements under section 235 shall not be less than 3 times the amount of the percentage applicable for insured depository institutions which do not meet such requirements.

(6) CERTAIN INVESTMENTS NOT ELIGIBLE TO BE TAKEN INTO ACCOUNT.—Investments by any insured depository institution in loans and securities that are not the result of originations by the institution shall not be taken into account for purposes of determining the amount of any credit pursuant to this subsection.

(b) QUALIFIED DISTRESSED COMMUNITY DEFINED.—

(1) IN GENERAL.—For purposes of this section, the term "qualified distressed community" means any neighborhood or community which—

(A) meets the minimum area requirements under paragraph (3) and the eligibility requirements of paragraph (4); and

(B) is designated as a distressed community by any insured depository institution in accordance with paragraph (2) and such designation is not disapproved under such paragraph.

(2) DESIGNATION REQUIREMENTS.—

(A) NOTICE OF DESIGNATION.—

(i) NOTICE TO AGENCY.—Upon designating an area as a qualified distressed community, an insured depository institution shall notify the appropriate Federal banking agency of the designation.

(ii) PUBLIC NOTICE.—Upon the effective date of any designation of an area as a qualified distressed community, an insured depository institution shall publish a notice of such designation in major newspapers and other community publications which serve such area.

(B) AGENCY DUTIES RELATING TO DESIGNATIONS.—

(i) PROVIDING INFORMATION.—At the request of any insured depository institution, the appropriate Federal banking agency shall provide to the institution appropriate information to assist the institution to identify and designate a qualified distressed community.

(ii) PERIOD FOR DISAPPROVAL.—Any notice received by the appropriate Federal banking agency from any insured depository institution under subparagraph (A)(i) shall take effect at the end of the 90-day period beginning on the date such notice is received unless written notice of the approval or disapproval of the application by the agency is provided to the institution before the end of such period.

(3) MINIMUM AREA REQUIREMENTS.—For purposes of this subsection, an area meets the requirements of this paragraph if—

(A) the area is within the jurisdiction of 1 unit of general local government;

(B) the boundary of the area is contiguous; and

(C) the area—

(i) has a population, as determined by the most recent census data available, of not less than—

(I) 4,000, if any portion of such area is located within a metropolitan statistical area (as designated by the Director of the Office of Management and Budget) with a population of 50,000 or more; or

(II) 1,000, in any other case; or

(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

(4) ELIGIBILITY REQUIREMENTS.—For purposes of this subsection, an area meets the requirements of this paragraph if at least 2 of the following criteria are met:

(A) INCOME.—At least 70 percent of the families and unrelated individuals residing in the area have incomes of less than 80 percent of the median income of the area.

(B) POVERTY.—At least 20 percent of the residents residing in the area have incomes which are less than the national poverty level (as determined pursuant to criteria established by the Director of the Office of Management and Budget).

(C) UNEMPLOYMENT.—The unemployment rate for the area is one and one-half times greater than the national average (as determined by the Bureau of Labor Statistic's most recent figures).

(c) ASSESSMENT CREDIT PROVIDED.—

(1) IN GENERAL.—Section 7(d) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)) amended—

(A) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (3) the following new paragraphs:

"(4) COMMUNITY ENTERPRISE ASSESSMENT CREDITS.—Notwithstanding paragraphs (2)(A) and (3)(A) and in addition to any assessment credit authorized under paragraph (2)(B) or (3)(B), the Corporation shall allow an assessment credit for any semiannual assessment period to any Bank Insurance Fund member or Savings Association Insurance Fund member satisfying the requirements of the Community Enterprise Assessment Credit Board under section 233(a)(1) of the Bank Enterprise Act of 1991 in the amount determined by such Board through regulation for such period pursuant to such section.

"(5) MAXIMUM AMOUNT OF CREDIT.—The total amount of assessment credits allowed under this subsection (including community enterprise assessment credits pursuant to paragraph (4)) for any insured depository institution for any semiannual period shall not exceed the amount which is equal to 20 percent, in the case of an institution which does not meet the community development organization requirements under section 235 of the Bank Enterprise Act of 1991, and 50 percent, in the case of an institution which meets such requirements, of the assessment imposed on such institution for the semiannual period.".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 7(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(1)) is amended by inserting "(other than credits allowed pursuant to paragraph (4))" after "amount to be credited".

(B) Subparagraph (B) of section 7(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(1)) is amended by inserting "(taking into account any assessment credit allowed pursuant to paragraph (4))" after "should be reduced".

(d) COMMUNITY ENTERPRISE ASSESSMENT CREDIT BOARD.—

(1) ESTABLISHMENT.—There is hereby established the "Community Enterprise Assessment Credit Board".

(2) NUMBER AND APPOINTMENT.—The Board shall be composed of 5 members as follows:

(A) The Secretary of the Treasury or a designee of the Secretary.

(B) The Secretary of Housing and Urban Development or a designee of the Secretary.

(C) The Chairperson of the Federal Deposit Insurance Corporation or a designee of the Chairperson.

(D) 2 individuals appointed by the President from among individuals who represent community organizations.

(3) TERMS.—

(A) APPOINTED MEMBERS.—Each appointed member shall be appointed for a term of 5 years.

(B) INTERIM APPOINTMENT.—Any member appointed to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed only for the remainder of such term.

(C) CONTINUATION OF SERVICE.—Each appointed member may continue to serve after the expiration of the period to which such member was appointed until a successor has been appointed.

(4) CHAIRPERSON.—The Secretary of the Treasury shall serve as the Chairperson of the Board.

(5) NO PAY.—No members of the Commission may receive any pay for service on the Board.

(6) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(7) MEETINGS.—The Board shall meet at the call of the Chairperson or a majority of the Board's members.

(e) DUTIES OF THE BOARD.—

(1) PROCEDURE FOR DETERMINING COMMUNITY ENTERPRISE ASSESSMENT CREDITS.—The Board shall establish procedures for accepting and considering applications by insured depository institutions under subsection (a)(1) for community enterprise assessment credits and making determinations with respect to such applications.

(2) NOTICE TO FDIC.—The Board shall notify the applicant and the Federal Deposit Insurance Corporation of any determination of the Board with respect to any application referred to in paragraph (1) in sufficient time for the Corporation to include the amount of such credit in the computation made for purposes of the notification required under paragraph section 7(d)(1)(B).

(f) DEFINITIONS.—For purposes of this section—

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the meaning given to such term in section 3(q) of the Federal Deposit Insurance Act.

(2) BOARD.—The term "Board" means the Community Enterprise Assessment Credit Board established under the amendment made by subsection (d).

(3) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act.

SEC. 234. DISTRESSED COMMUNITIES LACKING INSURANCE SERVICES.

(a) IN GENERAL.—With the approval of the appropriate Federal banking agency, any insured depository institution which is located in (or maintains a branch located in) a qualified distressed community may sell insurance to the extent—

(1) the insurance sales activities are confined to that community; and

(2) the insurance is sold only to residents of the community or individuals employed within such community.

(b) CERTAIN ACTIVITIES PROHIBITED IN CONNECTION WITH INSURANCE ACTIVITIES.—No insured depository institution which sells insurance pursuant to subsection (a) may—

(1) assume or guarantee the payment of any premium on any insurance policy issued through the agency of the institution by the insurance company for which the institution is acting as agent; or

(2) guarantee the truth of any statement made by an insurance customer in filing such customer's application for insurance.

(c) AGENCY DETERMINATION OF UNAVAILABILITY OF INSURANCE SERVICES.—

(1) IN GENERAL.—The appropriate Federal banking agency may approve an application by an insured depository institution to sell insurance under subsection (a) in any qualified distressed community only if such agency—

(A) provides notice to the appropriate insurance regulatory authority of the application;

(B) considers any recommendation submitted by such authority with respect to such application; and

(C) concludes, after proceedings in accordance with section 8(h) of the Federal Deposit Insurance Act, that the availability of insurance agents providing competitively priced products in the community is inadequate.

(2) RECOMMENDATIONS OF APPROPRIATE INSURANCE REGULATORY AUTHORITY.—If the conclusion of the appropriate Federal banking agency with respect to any application under subparagraph (A) is inconsistent with any recommendation of the appropriate insurance regulatory authority under such subparagraph, the agency shall include a written explanation of the agency's reasons for the inconsistency in the record of such proceeding and transmit a copy of such explanation to the authority.

(d) APPLICABILITY OF CONSUMER PROTECTION PROVISIONS.—Section 4(n) of the Financial Services Holding Company Act of 1991 and section 106(b) of the Bank Holding Company Act Amendments of 1970 shall apply to the insurance sales activities of any insured depository institution under this subsection in the same manner and to the same extent such sections apply to insurance activities of an insured depository institution subsidiary of a financial services holding company.

(e) COORDINATION WITH STATE LAW.—

(1) IN GENERAL.—This section shall not alter or affect the laws of any State relating to insurance activities of insured depository institutions within such State except to the extent that any such law is inconsistent with any provision of this section.

(2) EFFECT OF INCONSISTENCY.—This section shall supersede any provision of the law of any State which is inconsistent with any provision of this section.

(f) DEFINITIONS.—For purposes of this section—

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the meaning given to such term in section 3(q) of the Federal Deposit Insurance Act.

(2) QUALIFIED DISTRESSED COMMUNITY.—The term "qualified distressed community" has the meaning given to such term in section 233(b).

SEC. 235. COMMUNITY DEVELOPMENT ORGANIZATIONS.

(a) COMMUNITY DEVELOPMENT ORGANIZATIONS DESCRIBED.—For purposes of this subtitle, any insured depository institution shall be treated as meeting the community development organization requirements of this section if—

(1) the institution—

(A) is a community development bank, or controls any community development bank, which meets the requirements of subsection (b);

(B) controls any community development corporation, or maintains any community development unit within the institution, which meets the requirements of subsection (c);

(C) invests in any community development credit union which meets the requirements established by the National Credit Union Administration Board for community development credit unions; or

(D) invests in a community development organization jointly controlled by two or more institutions;

(2) except in the case of an institution which is a community development bank, the amount of the capital invested, in the form of debt or equity, by the institution in the community development organization referred to in paragraph (1) (or, in the case of any community development unit, the amount which the institution irrevocably makes available to such unit for the purposes described in paragraph (3)) is not less than the greater of—

(A) ½ of 1 percent of the capital, as defined by generally accepted accounting principles, of the institution; or

(B) the sum of the amounts invested in such community development organization; and

(3) the community development organization provides loans for residential mortgages, home improvement, and community development and other financial services, other than financing for the purchase of automobiles or extension of credit under any open-end credit plan (as defined in section 103(i) of the Truth in Lending Act), to low- and moderate-income persons, nonprofit organizations, and small businesses located in qualified distressed communities in a manner consistent with the intent of this subtitle.

(b) COMMUNITY DEVELOPMENT BANK REQUIREMENTS.—A community development bank meets the requirements of this subsection if—

(1) the community development bank has a 15-member advisory board designated as the "Community Investment Board" and consisting entirely of community leaders who—

(A) shall be appointed initially by the board of directors of the community development bank and thereafter by the Community Investment Board from nominations received from the community; and

(B) are appointed for a single term of 2 years, except that, of the initial members appointed to the Community Investment Board, ⅓ shall be appointed for a term of 8 months, ⅓ shall be appointed for a term of 16 months, and ⅓ shall be appointed for a term of 24 months, as designated by the board of directors of the community development bank at the time of the appointment;

(2) ⅓ of the members of the community development bank's board of directors are appointed from among individuals nominated by the Community Investment Board; and

(3) the bylaws require that the board of directors of the bank meet with the Community Investment Board at least once every 3 months.

(c) COMMUNITY DEVELOPMENT CORPORATION REQUIREMENTS.—Any community development corporation, or community development unit within any insured depository institution meets the requirements of this subsection if the corporation or unit provides the same or greater, as determined by the appropriate Federal banking agency, community participation in the activities of such corporation or unit as would be provided by a Community Investment Board under subsection (b) if such corporation or unit were a community development bank.

(d) ADEQUATE DISPERSAL REQUIREMENT.—The appropriate Federal banking agency may approve the establishment of a community development organization under this subtitle only upon finding that the distressed community is not adequately served by an existing community development organization.

(e) DEFINITIONS.—For purposes of this section—

(1) COMMUNITY DEVELOPMENT BANK.—The term "community development bank" means any depository institution (as defined in section 3(c)(1) of the Federal Deposit Insurance Act).

(2) COMMUNITY DEVELOPMENT ORGANIZATION.—The term "community development organization" means any community development bank, community development corporation, community development unit within any insured depository institution, or community development credit union.

(3) LOW- AND MODERATE-INCOME PERSONS.—The term "low- and moderate-income persons" has the meaning given such term in section 102(a)(20) of the Housing and Community Development Act of 1974.

(4) NONPROFIT ORGANIZATION; SMALL BUSINESS.—The terms "nonprofit organization" and "small business" have the meanings given to such terms by regulations which the appropriate Federal banking agency shall prescribe for purposes of this section.

(5) QUALIFIED DISTRESSED COMMUNITY.—The term "qualified distressed community" has the meaning given to such term in section 233(b).

TITLE III—NATIONWIDE BANKING AND BRANCHING

SEC. 301. NATIONWIDE BANKING.

(a) INTERSTATE ACQUISITIONS.—Section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended to read as follows:

"(d) INTERSTATE ACQUISITIONS AND BRANCHING.—

"(1) IN GENERAL.—The Board may approve an application under this section by a bank holding company or foreign bank to acquire, directly or indirectly, any voting shares of, interest in, or all or substantially all of the assets of any additional insured depository institution or bank holding company located in any State.

"(2) STATE LAW.—Any acquisition described in paragraph (1) that has been approved under this section may be consummated notwithstanding any State law that would prohibit or otherwise limit such acquisition on the basis of—

"(A) the location or size of the acquiring company, foreign bank, or subsidiary of such company or foreign bank;

"(B) the number of insured depository institution subsidiaries of such company or foreign bank; or

"(C) any other factor that, directly or indirectly, has the effect of prohibiting or limiting the acquisition of shares or control of an insured depository institution or bank holding company located in that State by an out-of-State bank holding company or foreign bank if such factor is not applied with similar effect in the case of acquisitions of insured depository institutions or bank holding companies located in such State by bank holding companies located in the State.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect at the end of the 3-year period beginning on the date of the enactment of this Act.

SEC. 302. INTERSTATE BRANCHING BY NATIONAL BANKS.

(a) LOCATION OF BRANCHES.—Section 5155(c) of the Revised Statutes (12 U.S.C. 36(c)) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) in paragraph (2), by striking the 1st period and inserting "; and"; and

(3) by inserting after paragraph (2) the following new paragraph: "(3) at an initial location within any State in which a bank holding company having the same home State as the national bank could acquire a bank pursuant to section 3 of the Bank Holding Company Act of 1956 or at an initial location within any State in which a State bank chartered in the home State of the national bank could establish a branch, and, after the establishment of a branch at an initial location in the State, to the extent permitted in paragraphs (1) and (2) for national banks located in the State.".

(b) APPLICATION OF LAW OF HOST STATE.—Section 5155 of the Revised Statutes (12 U.S.C. 36) is amended by redesignating subsections (f), (g), and (h) as subsections (g), (h), and (i), respectively, and by inserting after subsection (e) the following new subsection:

"(f) Application of Law of Host State.—

"(1) FILING REQUIREMENTS FOR ESTABLISHMENT OF BRANCH.—

"(A) IN GENERAL.—Any State, other than the home State of a national bank, may require any national bank which is establishing a branch within such host State to comply with filing requirements that are not discriminatory in nature and have a similar effect as those that are otherwise imposed on a corporation in another State that is not engaged in the business of banking and seeks to engage in business in the host State.

"(B) FAILURE TO COMPLY.—The host State may prohibit any national bank the principal place of business of which is located in another State from establishing or operating a branch within the host State if the bank or any branch of such bank fails to comply with the filing requirements.

"(2) COMPLIANCE WITH STATE LAW AFTER ESTABLISHMENT.—

"(A) IN GENERAL.—Upon the establishment of a branch of a national bank in a host State, the branch shall be subject to the law of the host State in the same manner and to the same extent as a national bank the principal place of business of which is located in such State.

"(B) RULE OF CONSTRUCTION FOR SUBPARAGRAPH (A).—Subparagraph (A) shall not be construed as affecting the authority of the host State to tax any branch referred to in such subparagraph (A).".

(c) DEFINITIONS.—

(1) BRANCH.—Subsection (g) of section 5155 of the Revised Statutes (as so redesignated by subsection (b) of this section) is amended to read as follows:

"(g) BRANCH DEFINED.—For purposes of this section, the term 'branch' means any office, agency, or other place of business located in any State at which deposits are received, checks paid, or money lent.".

(2) OTHER DEFINITIONS.—Section 5155 of the Revised Statutes (12 U.S.C. 36) is amended by adding after subsection (i) (as so redesignated by subsection (b) of this section) the following new subsections:

"(j) HOME STATE DEFINED.—For purposes of this section, the term 'home State' means—

"(1) in the case of any national bank, the State in which the principal place of business of such bank is located; and

"(2) in the case of a bank holding company, the State in which the total deposits of all bank subsidiaries of such company is the largest.

"(k) STATE DEFINED.—For purposes of this section, the term 'State' has the meaning given to such term in section 3(a)(3) of the Federal Deposit Insurance Act.

"(l) HOST STATE DEFINED.—For purposes of this section, the term 'host State' is the State in which a bank establishes or maintains a branch other than the home State of such bank.".

SEC. 303. INTERSTATE CONSOLIDATION OR MERGER OF NATIONAL BANKS OR STATE BANKS WITH NATIONAL BANKS.

(a) CONSOLIDATION OF NATIONAL BANKS OR STATE BANKS WITH NATIONAL BANKS.—Subsection (a) of the 1st section of the Act entitled "An Act To provide for the consolidation of national banking associations." and approved November 7, 1918 (12 U.S.C. 215) is amended by inserting "or in any other State" after "located in the same State".

(b) MERGER OF NATIONAL BANKS OR STATE BANKS WITH NATIONAL BANKS.—Section 2(a) of the Act entitled "An Act To provide for the consolidation of national banking associations." and approved November 7, 1918 (12 U.S.C. 215a(a)) is amended by inserting "or in any other State" after "located within the same State".

(c) DEFINITIONS.—Section 3(4) of the Act entitled "An Act To provide for the consolidation of national banking associations." and approved November 7, 1918 (12 U.S.C. 215b(4)) is amended by striking ", located within the same State,".

(d) RETENTION OF BRANCHES FOLLOWING MERGER OR CONSOLIDATION WITH NATIONAL BANKS.—Section 5155(b)(2) of the Revised Statutes (12 U.S.C. 36(b)(2)) is amended to read as follows:

"(2) RESULTING NATIONAL BANKS.—

"(A) RETENTION OF EXISTING BRANCHES.—A national bank resulting from the consolidation of a national bank (under whose charter such consolidation is effected) with any other bank may retain and operate as a branch any office which, immediately before such consolidation, was in operation as an office or branch of any bank participating in the consolidation if the Comptroller of the Currency approves the continued operation of such office or branch as a branch after the consolidation.

"(B) CONDITIONS FOR APPROVAL.—The Comptroller of the Currency may not grant approval under subparagraph (A) for the retention of any office or branch of any bank participating in the consolidation referred to in such subparagraph if, in a situation identical to that of the resulting national bank, any State bank which were to result from the consolidation of a State bank with any other bank would be prohibited by the law of the host State from retaining and operating as a branch, after such consolidation, any office or branch which is identically situated and was operated as an office or branch of the State bank immediately before the consolidation.".

SEC. 304. INTERSTATE BRANCHING BY STATE BANKS.

(a) IN GENERAL.—Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended by inserting after paragraph (2) the following new paragraphs:

"(3) STATE LAW.—

"(A) LIMIT ON AUTHORITY OF STATE TO EXCLUDE.—Except as otherwise provided in this subsection, no State may prohibit any insured bank chartered by another State, and engaged in a banking business in another State, from establishing and maintaining 1 or more branches within the State.

"(B) AUTHORITY OF HOST STATE TO MAINTAIN FILING REQUIREMENTS.—

"(i) IN GENERAL.—A host State may require any insured bank chartered by another State which is establishing a branch within the host State to comply with filing requirements that are not discriminatory in nature and have a similar effect as requirements that are otherwise imposed on a corporation in another State that is not engaged in the business of banking and seeks to engage in business in the host State.

"(ii) FAILURE TO COMPLY.—The host State may prohibit any State bank the principal office of which is located in another State from establishing or operating a branch within the host State if the bank or any branch of such bank fails to comply with the filing requirements.

"(C) COMPLIANCE WITH STATE LAW AFTER ESTABLISHMENT.—

"(i) IN GENERAL.—Upon the establishment of a branch of a State bank in a host State, the branch shall be subject to the law of the host State in the same manner and to the same extent as a State bank chartered by, or organized under the laws of, such State.

"(ii) RULE OF CONSTRUCTION FOR CLAUSE (i).—Clause (i) shall not be construed as affecting the authority of the host State to tax any branch referred to in such clause.

"(4) LOCATION OF BRANCHES.—

"(A) IN GENERAL.—Any insured State bank may, if authorized by the law of the State in which the bank is chartered, establish and maintain—

"(i) a branch at an initial location within any other State in which a bank holding company, whose principal place of operations is the same State in which the insured bank is chartered, could acquire an additional bank pursuant to section 3 of the Bank Holding Company Act of 1956; and

"(ii) additional branches at locations within any State in which the bank has established an initial branch pursuant to clause (i), to the extent permitted for insured State banks located in such State under the law of such State (and for purposes of applying such law, the initial branch of the out-of-State insured bank in such State shall be treated as the head office of such bank in such State).

"(B) PRINCIPAL PLACE OF OPERATIONS DEFINED.—For purposes of this paragraph, the term 'principal place of operations' means the State in which the total deposits of all bank subsidiaries of such company are largest.

"(5) RESERVATION OF CERTAIN RIGHTS TO STATES.—Nothing in this subsection shall limit in any way the right of a State to determine the authority of State banks chartered in that State to establish and maintain branches, or to supervise, regulate, and examine State banks chartered by that State.

"(6) ACTIVITIES OF BRANCHES.—An insured State bank that establishes a branch or branches pursuant to paragraph (4) may not conduct any activity at such branch that is not permissible for a bank chartered by the host State.

"(7) COORDINATION OF EXAMINATION AUTHORITY.—

"(A) HOST STATE EXAMINATIONS OF BRANCHES IN STATE.—A host State bank supervisor may examine branches established in the host State by banks chartered by another State for the purpose of determining compliance with the applicable law of the host State and to ensure that the activities of the branch are conducted in a manner not inconsistent with sound banking principles and do not constitute a serious risk to the safe and sound operation of the branch.

"(B) HOST STATE ENFORCEMENT OF STATE LAW TO IN-STATE BRANCHES OF OUT-OF-STATE BANKS.—If any appropriate State bank supervisor of any host State determines that an in-State branch of an out-of-State bank violated the applicable law of the host State or that the branch is being operated in a manner not consistent with sound banking principles or in an unsafe and unsound manner, such State bank supervisor may undertake such enforcement actions or proceedings as would be permitted under host State law if the branch were deemed to be a bank chartered by that host State.

"(C) COOPERATIVE AGREEMENTS.—The State bank authorities from 1 or more States may enter into cooperative agreements to facilitate State regulatory supervision of State-chartered banks including cooperative agreements relating to the coordination of examinations and joint participation in examinations, to the extent the participation by a host State bank supervisor in the examination of a branch of an out-of-State bank is limited to the purposes described in subparagraph (A).".

(b) HOST STATE DEFINED.—Section 3(a) of the Federal Deposit Insurance Act (12 U.S.C. 1813a)) is amended by adding at the end the following new paragraph:

"(8) HOST STATE DEFINED.—For purposes of this subsection a 'host State' is the State in which a depository institution establishes or maintains a branch other than the State in which the depository institution is chartered and engaging in banking business.".

SEC. 305. INTERSTATE BRANCHING AND BANKING BY FOREIGN BANKS.

(a) ESTABLISHMENT AND OPERATION OF FEDERAL BRANCHES AND AGENCIES.—Section 4(a) of the International Banking Act of 1978 (12 U.S.C. 3102(a)) (as amended by section 202(b) of this Act) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by striking paragraph (1) and inserting the following new paragraphs:

"(1) INITIAL FEDERAL BRANCH OR FEDERAL AGENCY.—

"(A) IN GENERAL.—A foreign bank which engages directly in a banking business outside the United States may, with the approval of the Comptroller of the Currency, establish and operate a Federal branch or Federal agency at an initial location in any State in which it is not operating a branch or agency pursuant to State law.

"(B) TRANSITION RULE.—Notwithstanding subparagraph (A), during the 3-year period beginning on the date of the enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, the Comptroller of the Currency may only authorize the establishment under such subparagraph of a branch or agency by a foreign bank, as the case may be, if such establishment is not prohibited by the law of the relevant State.

"(2) ADDITIONAL BRANCHES AND AGENCIES.—A foreign bank which engages directly in a banking business outside the United States may establish and operate additional Federal branches or Federal agencies in any State in accordance with the provisions of subsection (h).".

(b) ESTABLISHMENT OF FEDERAL BRANCHES OR AGENCIES IN ADDITIONAL STATE.—Section 4(h)(1) of the International Banking Act of 1978 (12 U.S.C. 3102(h)) (as amended by section 202(c) of this title) is amended—

(1) by striking "in the State in which such branch or agency is located";

(2) by inserting "or the initial branch of a national bank in a host State" after "the principal office of such national bank"; and

(3) by adding at the end the following sentence: "For purposes of section 5155(c) of the Revised Statutes, the home State of a foreign bank shall be the bank's home State as determined under section 5.".

(c) ESTABLISHMENT AND OPERATION OF OFFICES OF FOREIGN BANKS.—Section 5(a) of the International Banking Act of 1978 (12 U.S.C. 3103(a)) is amended to read as follows:

"(a) LIMITATIONS.—

"(1) PARITY OF TREATMENT WITH BANK HOLDING COMPANIES.—No foreign bank may establish or operate a State branch in any State outside such bank's home State unless a bank holding company, the principal place of operations, of which (under section 3 of the Bank Holding Company Act of 1956) is in the same State as the home State of the foreign bank, would be permitted to acquire a bank in such other State.

"(2) FEDERAL AND STATE APPROVAL GENERALLY.—No foreign bank may directly or indirectly establish or operate a State branch, State agency, or commercial lending company subsidiary outside of the foreign bank's home State unless the establishment and operation of such branch, agency, or company is approved by the Board pursuant to section 7 and the State bank supervisor of the State in which the new branch, agency, or company is to be located.

"(3) STATE LAW.—

"(A) LIMIT ON AUTHORITY OF STATE TO EXCLUDE.—Notwithstanding paragraph (2), after the end of the 3-year period beginning on the date of enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, no State shall prohibit a foreign bank having a State branch or State agency licensed by another State and engaged in a banking business in that other State, from establishing and maintaining 1 or more branches or agencies of that foreign bank within the State after approval from the State bank supervisor of such other State and the Board.

"(B) AUTHORITY OF HOST STATE TO MAINTAIN CERTAIN REQUIREMENTS.—The establishment, operation, and supervision of any branches or agencies referred to in subparagraph (A) shall be conducted in accordance with and be subject to the provisions applicable to an interstate branch of a State bank under section 18(d) of the Federal Deposit Insurance Act as if the branch in such other State were an insured State bank located in such other State.

"(4) FOREIGN BANKS TREATED AS HOLDING COMPANIES FOR PURPOSES OF CERTAIN ACQUISITIONS.—

"(A) IN GENERAL.—A foreign bank may not, directly or indirectly, acquire more than 5 percent of the voting shares of, or all or substantially all of the assets of, a bank holding company or bank located outside of the foreign bank's home State without the approval of the Board under section 3 of the Bank Holding Company Act of 1956.

"(B) APPLICABILITY OF BANK HOLDING COMPANY ACT OF 1956.—For purposes of subparagraph (A), section 3 of the Bank Holding Company Act of 1956 shall apply to a foreign bank or company referred to in such subparagraph as if the foreign bank or company were a bank holding company located in the foreign bank's home State.

"(5) INTERSTATE BRANCHES OR AGENCIES OF FOREIGN BANKS.—Notwithstanding paragraph (1) and section 4(h), a foreign bank may, with the approval of the Comptroller of the Currency, establish and operate a Federal branch or Federal agency or, with the approval of the Board and the appropriate State bank supervisor, a State branch or State agency in any State outside of the foreign bank's home State if—

"(A) the establishment and operation of a branch or agency is expressly permitted by the State in which it is to be established; and

"(B) in the case of a Federal or State branch, the branch receives only such deposits as would be permissible for a corporation organized under section 25(a) of the Federal Reserve Act.".

SEC. 306. INTERSTATE ACQUISITIONS BY SAVINGS AND LOAN HOLDING COMPANIES.

Section 10(e)(3) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)(3)) is amended to read as follows:

"(3) INTERSTATE ACQUISITIONS.—

"(A) IN GENERAL.—The Director may approve an application under this subsection for a savings and loan holding company or a foreign bank to acquire, directly or indirectly, any voting shares of, interest in, or all or substantially all the assets of any additional savings association located in any State.

"(B) STATE LAWS.—Any acquisition described in subparagraph (A) that has been approved under this section may be consummated notwithstanding any State law that would prohibit or otherwise limit such acquisition on the basis of—

"(i) the location or size of the acquiring company, foreign bank, or any subsidiary of such company or foreign bank;

"(ii) the number of insured depository institution subsidiaries of the company or foreign bank; or

"(iii) any other factor that, directly or indirectly, has the effect of prohibiting or limiting the acquisition of shares or control of a savings association or savings and loan holding company located in that State by an out-of-State savings and loan holding company or foreign bank if such factor is not applied without similar effect in the case of acquisitions of savings associations by savings and loan holding companies located in that State.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) STATE.—The term 'State' has the meaning given to such term in section 3(a)(3) of the Federal Deposit Insurance Act.

"(ii) FOREIGN BANK.—The term 'foreign bank' has meaning given to such term in section 1(b)(7) of the International Banking Act.".

SEC. 307. STATE-BY-STATE CRA EVALUATIONS OF DEPOSITORY INSTITUTIONS WITH INTERSTATE BRANCHES.

Section 807 of the Community Reinvestment Act of 1977 (12 U.S.C. 2906) is amended by adding the following new subsection:

"(d) INSTITUTIONS WITH INTERSTATE BRANCHES.—

"(1) STATE-BY-STATE EVALUATION.—In the case of a regulated financial institution which maintains 1 or more domestic branches located outside the State in which the institution's principal place of business is located (hereafter in this subsection referred to as the 'home State'), the appropriate Federal financial supervisory agency shall prepare—

"(A) a written evaluation of the entire institution's record of performance under this Act, as required by subsections (a), (b), and (c) of this section; and

"(B) for each State in which the institution maintains 1 or more domestic branches (including the institution's home State), a separate written evaluation of the institution's record of performance within such State under this Act, as required by subparagraphs (A) and (B) of subsection (b)(1) of this section.

"(2) CONTENT OF STATE LEVEL EVALUATION.—A written evaluation prepared pursuant to paragraph (1)(B) of this subsection shall report the information required by such paragraph separately for each metropolitan area (as defined by the appropriate Federal financial supervisory agency) in which the regulated financial institution maintains 1 or more domestic branch offices and separately for the nonmetropolitan portion of the State if the institution maintains 1 or more domestic branch offices in such nonmetropolitan area.".

SEC. 308. PROHIBITION AGAINST DEPOSIT PRODUCTION OFFICES.

(a) REGULATIONS.—Before the end of the 120-day period beginning on the date of the enactment of this Act, the appropriate Federal banking agency shall prescribe regulations which prohibit any person from using any authority to engage in interstate branching pursuant to this title or any amendment made by this title to any other provision of law primarily for the purpose of deposit production.

(b) GUIDELINES FOR MEETING CREDIT NEEDS.—Regulations issued under subsection (a) shall include guidelines to ensure that each interstate branch meets the credit needs of the community and market area in which the branch operates.

(c) LIMITATION ON OUT-OF-STATE LOANS.—

(1) LIMITATION.—Regulations issued under subsection (a) shall require that if the percentage of outstanding loans made by an interstate branch to borrowers located in the host State of, or market area served by, the branch is less than half the average of such percentage for all Federal depository institutions and State depository institutions having their principal place of operations in the host State or that market area—

(A) the appropriate Federal banking agency for the branch shall review the loan portfolio of the branch and determine whether the branch is reasonably meeting the credit needs of the community and market area in which the branch operates; and

(B) if the agency determines that the branch is not reasonably meeting those needs—

(i) the branch shall be closed, and

(ii) the person which established the branch may not open a new branch in that State unless the person provides reasonable assurances to the satisfaction of the appropriate Federal banking agency that the new branch will reasonably meet the credit needs of the community and market area in which the new branch will operate.

(2) CONSIDERATIONS.—In making a determination under paragraph (1)(A) regarding an interstate branch, the appropriate Federal banking agency shall consider—

(A) whether the branch was acquired as part of the purchase of a failed or failing depository institution;

(B) whether the branch has a higher concentration of commercial and credit card lending; and

(C) the ratings received by the branch in evaluations under the Community Reinvestment Act of 1977.

(d) APPLICATION.—This section shall not apply to any interstate branch acquired before June 25, 1991, as part of any consolidation or merger of depository institutions.

(e) DEFINITIONS.—For the purposes of this section—

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the meaning that term has in section 3 of the Federal Deposit Insurance Act.

(2) BRANCH.—The term "branch" means any office, agency, or other place of business located in any State at which deposits are received, checks paid, or money lent.

(3) FEDERAL DEPOSITORY INSTITUTIONS AND STATE DEPOSITORY INSTITUTION.—Each of the terms "Federal depository institution" and "State depository institution" has the meaning given that term in section 3 of the Federal Deposit Insurance Act.

(4) HOST STATE DEFINED.—The term "host State" means the State in which a bank establishes or maintains a branch, other than—

(A) the State in which the bank is chartered and engaging in banking business, or

(B) in the case of—

(i) a national bank, the State in which the principal place of business of such association is located, and

(ii) a bank holding company, the State in which the total deposits of all bank subsidiaries of such company is the largest,

as applicable under the amendments made by this title.

(5) INTERSTATE BRANCH.—The term "interstate branch" means a branch established pursuant to the authority referred to in subsection (a).

(6) PRINCIPAL PLACE OF OPERATIONS.—The term "principal place of operations" means the State in which the total deposits of all bank subsidiaries of a person are largest.

(7) STATE DEFINED.—The term "State" has the meaning given to such term in section 3 of the Federal Deposit Insurance Act.

SEC. 309. RESTATEMENT OF EXISTING LAW.

No provision of this title and no amendment made by this title to any other provision of law shall be construed as affecting in any way the right of any State, or any political subdivision of any State, to impose or maintain a nondiscriminatory franchise tax or other nonproperty tax instead of a franchise tax in accordance with section 3124 of title 31, United States Code.

SEC. 310. VISITORIAL POWERS.

Section 5240 of the Revised Statutes (12 U.S.C. 481 et seq.) is amended—

(1) by inserting before the 6th undesignated paragraph (12 U.S.C. 484) the following new paragraph heading:

"(6) VISITORIAL POWERS.—";

(2) by moving the left margins of subparagraphs (A) and (B) of paragraph (6) (as so designated by the amendment made by paragraph (1) of this section) 4 ems to the right; and

(3) by inserting after subparagraph (B) of such paragraph the following new subparagraph:

"(C) STATE VISITATIONS AUTHORIZED FOR TAX COMPLIANCE PURPOSES.—Notwithstanding subparagraph (A), any lawfully authorized auditor, examiner, or other representative acting on behalf of any State agency charged with the administration and collection of taxes imposed by a State or any political subdivision of a State may review at reasonable times those books and records of any Federal depository institution (as defined in section 3(c)(4) of the Federal Deposit Insurance Act) or any Federal credit union (as defined in section 101(1) of the Federal Credit Union Act) which are reasonably necessary to ensure compliance with the tax laws of the State or political subdivision.".

TITLE IV—FINANCIAL SERVICES MODERNIZATION

Subtitle A—Amendments to Federal Banking Laws

CHAPTER 1—FINANCIAL SERVICES HOLDING COMPANIES

SEC. 401. FINANCIAL SERVICES HOLDING COMPANIES.

(a) DEFINITIONS AMENDED.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended—

(1) by striking subsection (a)(1) and inserting the following:

"(a) TERMS RELATING TO CONTROL OF INSURED DEPOSITORY INSTITUTIONS.—

"(1) FINANCIAL SERVICES HOLDING COMPANY.—The term 'financial services holding company' means any company which controls any bank.";

(2) in the second sentence of subsection (a)(5)(A), by inserting a period after "thereto" and striking all that follows through the end of the sentence;

(3) by amending subsection (f) to read as follows:

"(f) BANKING AGENCIES.—

"(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency' has the meaning given to such term in section 3(q) of the Federal Deposit Insurance Act.

"(2) BOARD.—The term 'Board' means the Board of Governors of the Federal Reserve System."; and

(4) by inserting after subsection (m) the following new subsections:

"(n) SECURITIES AFFILIATE.—The term 'securities affiliate' means any company which—

"(1) is controlled by a financial services holding company; and

"(2) is engaged in the United States in activities which would not be permitted by section 4(c) for any subsidiary of a financial services holding company but for section 4(c)(15).

"(o) FOREIGN BANK.—The term 'foreign bank' has the meaning given to such term in section 1(b)(7) of the International Banking Act of 1978.

"(p) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act.

"(q) LEVEL 1 DEPOSITORY INSTITUTION AND LEVEL 2 DEPOSITORY INSTITUTION.—The terms 'level 1 depository institution' and 'level 2 depository institution' have the meaning given to such terms in section 38 of the Federal Deposit Insurance Act.

"(r) LEVEL 1 FINANCIAL SERVICES HOLDING COMPANY.—The term 'level 1 financial services holding company' means any financial services holding company not less than 80 percent of the banking assets of which are held by level 1 depository institution subsidiaries and any other banking assets of which are held by level 2 depository institution subsidiaries.

"(s) FUNCTIONAL REGULATOR.—The term 'functional regulator' means any Federal agency or State supervisory authority that has supervisory authority over activities of any company which is a financial services holding company or any subsidiary of any such company (other than an insured depository institution).

"(t) NEW FINANCIAL ACTIVITY.—The term 'new financial activity' means any activity described in section 4(c)(8) or 4(c)(15) other than any activity that the Board has determined (by regulation or order that is in effect on December 31, 1992) to be so closely related to banking as to be a proper incident thereto.

"(u) QUALIFIED FINANCIAL ACTIVITY.—The term 'qualified financial activity' means any activity described in section 4(c)(8) or 4(c)(15).

"(v) FINANCIAL AFFILIATE.—The term 'financial affiliate' means any subsidiary of a financial services holding company (other than an insured depository institution) that is engaged in the United States in qualified financial activities.".

(b) CONFORMING AMENDMENTS.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended—

(1) in subsection (c)(2)(J), by striking "to move such Corporation from Federal Savings and Loan Insurance Corporation insurance to Federal Deposit Insurance Corporation insurance" and inserting "to cause such corporation to cease to be a Savings Association Insurance Fund member and become a Bank Insurance Fund member (as defined in section 7(l) of the Federal Deposit Insurance Act)";

(2) in subsection (h)(5), by striking "bank" the 1st place such term appears and inserting "insured depository institution"; and

(3) by striking "bank holding company" each place such term appears (other than in subsection (b)) and inserting "financial services holding company".

SEC. 402. ACQUISITION OF BANKS.

(a) AMENDMENTS TO APPLICATION PROCESS.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended—

(1) in subsection (a)—

(A) by striking paragraph (3) and inserting the following new paragraph: "(3) for any financial services holding company to acquire ownership or control of any voting shares of any insured depository institution or financial services holding company, if, after such acquisition, such company will own or control more than 5 percent of the voting shares of such institution or company;";

(B) by inserting before "Notwithstanding the foregoing" the following new sentence: "No insured depository institution (other than a foreign bank operating an insured branch as defined in section 3(s) of the Federal Deposit Insurance Act) may become a financial services holding company.";

(C) by adding at the end the following new sentence: "Notwithstanding paragraph (1), any company that was a bank holding company on December 31, 1992, under this Act (as in effect on such date) shall be a financial services holding company as of January 1, 1993, without further approval by the Board."; and

(D)(i) by striking "or" at the end of subparagraph (A);

(ii) in subparagraph (B), by striking the 1st period and inserting "; or"; and

(iii) by inserting after subparagraph (B) the following new subparagraph:

"(C) the acquisition, by a company, of control of a bank in a reorganization in which a person or group of persons exchange their shares of the bank for shares of a newly formed financial services holding company and receive after the reorganization substantially the same proportional share interest in the holding company as they held in the bank except for changes in shareholders' interests resulting from the exercise of dissenting shareholders' rights under State or Federal law if—

"(i) immediately following the acquisition, the bank is a level 1 or level 2 depository institution;

"(ii) the holding company does not engage in any activities other than those of managing and controlling banks as a result of the reorganization; and

"(iii) the company provides 30 days prior notice to the Board.";

(2) in subsection (b)—

(A) by striking the 1st sentence and inserting the following new sentence: "Upon receiving an application under this section from any company to acquire any interest in an insured depository institution, the Board shall give notice to any other appropriate Federal banking agency with respect to such institution and, in the case of a State depository institution, to the appropriate State bank supervisor in order to obtain the views and recommendations of such other agency and such supervisor."; and

(B) in the 3d sentence, by striking "disapproves" and inserting "recommends disapproval of";

(3) in paragraph (1) of subsection (c) (as so redesignated by section 202(d) of this Act)—

(A) by striking ", or" at the end of subparagraph (A) (as so redesignated) and inserting a semicolon;

(B) by striking the period at the end of subparagraph (B) (as so redesignated) and inserting "; or"; and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) any acquisition, merger, or consolidation if the Board determines that the insured depository institution to be acquired or any other insured depository institution controlled by the company involved in the proposal is engaging in any unsafe and unsound practice or, upon consummation of the transaction, would be in an unsafe and unsound condition."; and

(4) by redesignating subsection (d) (as amended by section 301(a) of this Act) and subsections (e) through (g) as subsections (e) through (h), respectively, and inserting after subsection (c) the following new subsections:

"(d) EXPEDITED PROCEDURES FOR ACQUISITION OF ADDITIONAL INSURED DEPOSITORY INSTITUTIONS BY LEVEL 1 FINANCIAL SERVICES HOLDING COMPANIES.—

"(1) PROCEDURES.—

"(A) NOTICE TO OTHER AGENCIES.—Upon receiving a complete application under this section from a level 1 financial services holding company to acquire an insured depository institution, the Board shall notify any other appropriate Federal banking agency and any appropriate State bank supervisor in the manner provided in subsection (b).

"(B) PERIOD FOR REVIEW.—Notwithstanding subsection (b)(1), any views and recommendations of any other appropriate Federal banking agency and any appropriate State bank supervisor which received notice from the Board pursuant to subparagraph (A) with respect to any application described in such subparagraph shall be submitted by such agency or supervisor to the Board before the end of the 21-day period beginning on the date such notice was received.

"(C) LIMITED PERIOD FOR DISAPPROVAL.—If the Board fails to approve or disapprove any application described in subparagraph (A) before the end of the 45-day period beginning on the date a complete application is submitted to the Board, the application shall be deemed to have been approved.

"(D) ADJUSTMENT OF PERIOD.—If, in connection with any application described in subparagraph (A), the Board—

"(i) determines that an emergency exists which requires expeditious action;

"(ii) determines that immediate action must be taken to prevent the probable failure of an insured depository institution; or "(iii) is advised by the Federal Deposit Insurance Corporation or the appropriate State bank supervisor that an insured depository institution is in danger of default (as defined in section 3(x)(2) of the Federal Deposit Insurance Act),

the Board may waive or reduce the length of the 45-day notice period referred to in subparagraph (C) with respect to such application.

"(2) EXTENSION OF TIME FOR NOTICE AND HEARING.—

"(A) IN GENERAL.—The 45-day period referred to in paragraph (1)(C) may be extended if any other appropriate Federal banking agency or any appropriate State bank supervisor recommends in writing that the Board disapprove an application described in paragraph (1)(A).

"(B) REVIEW PERIOD AND PROCEDURES.—If any other appropriate Federal banking agency or any appropriate State bank supervisor recommends in writing that the Board disapprove an application described in paragraph (1)(A), the Board shall follow the review period and procedures for notice and hearing contained in subsection (b)(1).".

(b) CONFORMING AMENDMENTS.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) (as amended by subsection (a)), is amended—

(1) by striking "bank holding company" each place such term appears (other than the last sentence of subsection (a) (as added by this section) or where such term appears in the term "Bank Holding Company Act Amendments of 1970") and inserting "financial services holding company";

(2) in subsection (a)(2), by striking "causes a bank" and inserting instead "causes an insured depository institution"; and

(3) in subsection (a)(4)—

(A) by striking "other than a bank" and inserting "other than an insured depository institution"; and

(B) by striking "assets of a bank" and inserting instead "assets of an insured depository institution";

(4) in provision (a)(A), by striking "acquired by a bank" and inserting "acquired by an insured depository institution"; and

(5) in provision (a)(B), by striking "in a bank" and inserting "in an insured depository institution".

SEC. 403. INTERESTS IN NONBANKING ORGANIZATIONS.

(a) INTERESTS IN NONBANKING ORGANIZATIONS.—Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended—

(1) in subsection (a), by striking the last 2 sentences;

(2) in subsection (a)(2)—

(A) by striking "or in the case of a company which has been continuously" and all that follows through "December 31, 1980," and inserting "or in the case of a company that becomes a financial services holding company as a result of enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, after December 31, 1992";

(B) by striking "unsound banking practices; and in the case of any such company" and all that follows through "this sentence." and inserting "unsound banking practices."; and

(C) by striking the last sentence;

(3) in subsection (a)(2)(A)—

(A) by striking "of banking or"; and

(B) by striking "subsidiaries, and" and inserting "subsidiaries and, in the case of a foreign bank, the business of banking, if such business is otherwise permitted through a branch or agency (as defined in section 1(b) of the International Banking Act of 1978); and"; and

(4) in subsection (a)(2)(B), by striking "those permitted under" and all that follows through "under such paragraph" and inserting the following: "those permitted under subsection (c)(8) or (c)(15) in accordance with subsection (i) or (k), subject to all the conditions specified in this section or in any regulation prescribed or order issued by the Board under this section";

(5) subject to subsection (c) of this section, by striking paragraph (8) of subsection (c) and inserting the following new paragraph:

"(8) shares of any company the activities of which the Board, after due notice and opportunity for comment, has determined (by order or regulation) to be of a financial nature (in accordance with subsection (i));";

(6) by striking "or" at the end of subsection (c)(13);

(7) by striking the period at the end of subsection (c)(14) and inserting "; or";

(8) by inserting after paragraph (14) of subsection (c) the following new paragraph:

"(15) shares of any company engaged in—

"(A) underwriting, distributing, or dealing in securities;

"(B) organizing, sponsoring, controlling, or promoting any registered investment company pursuant to the Investment Company Act of 1940;

"(C) securities brokerage, private placement, or investment advisory activities; or

"(D) other activities that require such company to register with the Securities and Exchange Commission as a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser.";

(9) by striking the last 2 sentences of subsection (c); and

(10) by striking subsection (i) and inserting the following new subsections:

"(i) ACTIVITIES OF A FINANCIAL NATURE.—

"(1) ACTIVITIES APPROVED BEFORE JANUARY 1, 1993.—Any activity that the Board has determined (by regulation or order that is in effect on December 31, 1992) to be so closely related to banking as to be a proper incident thereto shall be deemed to be an activity of a financial nature for purposes of subsection (c)(8).

"(2) CONTINUATION OF PRIOR ACTIVITIES WITHOUT ADDITIONAL APPROVAL.—In the case of any bank holding company which becomes a financial services holding company on January 1, 1993, as a result of the enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, no approval under subsection (c)(8) shall be required, by reason of the enactment of such Act, in order for—

"(A) such holding company or any company any shares of which are held by the holding company to continue to engage, after December 31, 1992, in any activity described in paragraph (1) which was commenced by the holding company or such company before such date pursuant to an approval in effect on such date; or

"(B) the holding company to continue to retain, after December 31, 1992, any shares of any company engaged in any activity described in paragraph (1) if the holding company lawfully acquired the shares, or the company commenced the activity, before such date pursuant to an approval that is in effect on such date.

"(3) SECURITIES ACTIVITIES.—

"(A) IN GENERAL.—Notwithstanding paragraph (2), the following activities shall not be activities of a financial nature for purposes of subsection (c)(8):

"(i) Underwriting, dealing in, or acting as principal in the placement of, securities that a national bank may not underwrite or deal in under section 5136 of the Revised Statutes.

"(ii) Securities activities which are described in subsection (c)(15) and are not described in paragraph (1).

"(B) TRANSITION RULE.—Notwithstanding subparagraph (A), any financial services holding company that receives the approval of the Board to underwrite and deal in securities described in subparagraph (A) may continue to engage in such activities pursuant to subsection (c)(8) for a period not to exceed 3 years beginning on the date of the enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, subject to any condition or limitation imposed by the Board.

"(4) REAL ESTATE ACTIVITIES.—

"(A) IN GENERAL.—Real estate investment, management, or development and the purchase and sale of real estate as principal or broker shall not be activities of a financial nature for purposes of subsection (c)(8).

"(B) CONTINUATION OF PRIOR ACTIVITIES.—Notwithstanding subparagraph (A), any activity described in such subparagraph that the Board has determined, before May 3, 1991, by a regulation or order that is in effect on December 31, 1992, to be so closely related to banking as to be a proper incident thereto may continue to be treated by the Board as an activity of a financial nature for purposes of subsection (c)(8).

"(5) LIMITATION ON INSURANCE ACTIVITIES WITHIN THE HOLDING COMPANY.—Providing insurance as a principal, agent, or broker shall not be deemed to be an activity of a financial nature, and no financial services holding company may permit any thrift institution or insured institution (as defined in subsections (i) and (j) of section 2, respectively), subsidiary of such company (other than a bank), or any subsidiary of any such institution, to provide insurance as a principal, agent, or broker, except—

"(A) where the insurance is limited to assuring repayment of the outstanding balance due on a specific extension of credit by a financial services holding company or its subsidiary in the event of the death, disability, or involuntary unemployment of the debtor;

"(B) in the case of a finance company which is a subsidiary of a financial services holding company, where the insurance is also limited to assuring repayment of the outstanding balance on an extension of credit in the event of loss or damage to any property used as collateral on such extension of credit and, during the period beginning on October 15, 1982, and ending on December 31, 1982, such extension of credit is not more than $10,000 ($25,000 in the case of an extension of credit which is made to finance the purchase of a residential manufactured home and which is secured by such residential manufactured home) and for any given year after 1982, such extension of credit is not more than an amount equal to $10,000 ($25,000 in the case of an extension of credit which is made to finance the purchase of a residential manufactured home and which is secured by such residential manufactured home) increased by the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published monthly by the Bureau of Labor Statistics for the period beginning on January 1, 1982, and ending on December 31 of the year preceding the year in which such extension of credit is made;

"(C) any insurance agency activity in a place that—

"(i) has a population not exceeding 5,000 (as shown by the last preceding decennial census); or "(ii) the financial services holding company, after notice and opportunity for a hearing, demonstrates it has inadequate insurance agency facilities;

"(D) any insurance agency activity which was engaged in by the financial services holding company or any of its subsidiaries on May 1, 1982, or which the Board approved for such company or any of its subsidiaries on or before May 1, 1982, including—

"(i) sales of insurance at new locations of the same financial services holding company or the same subsidiary or subsidiaries with respect to which insurance was sold on May 1, 1982, or approved to be sold on or before May 1, 1982, if such new locations are confined to the State in which the principal place of business of the financial services holding company is located, any State or States immediately adjacent to such State, and any State or States in which insurance activities were conducted by the financial services holding company or any of its subsidiaries on May 1, 1982, or were approved to be conducted by the financial services holding company or any of its subsidiaries on or before May 1, 1982; and

"(ii) sales of insurance coverages which may become available after May 1, 1982, so long as those coverages insure against the same types of risks as, or are otherwise functionally equivalent to, coverages sold on May 1, 1982, or approved to be sold on or before May 1, 1982 (for purposes of this subparagraph, activities engaged in or approved by the Board on May 1, 1982, shall include activities carried on subsequent to that date as the result of an application to engage in such activities pending on May 1, 1982, and approved subsequent to that date or of the acquisition by such company pursuant to a binding written contract entered into on or before May 1, 1982, of another company engaged in such activities at the time of the acquisition);

"(E) any insurance activity where the activity is limited solely to supervising on behalf of insurance underwriters the activities of retail insurance agents who sell—

"(i) fidelity insurance and property and casualty insurance on the real and personal property used in the operations of the financial services holding company or any of its subsidiaries; and

"(ii) group insurance that protects the employees of the financial services holding company or any of its subsidiaries;

"(F) any insurance agency activity engaged in by a financial services holding company, or any of its subsidiaries, which financial services holding company has total assets of $50,000,000 or less, except that such a financial services holding company and its subsidiaries may not engage in the sale of life insurance or annuities except as provided in subparagraph (A), (B), or (C); or

"(G) where the activity is performed, or shares of the company involved are owned, directly or indirectly, by a financial services holding company which is registered with the Board of Governors of the Federal Reserve System and which, prior to January 1, 1971, was engaged, directly or indirectly, in insurance agency activities as a consequence of approval by the Board prior to January 1, 1971.

"(6) INSURANCE ACTIVITIES OF BANK SUBSIDIARIES OF HOLDING COMPANIES.—

"(A) IN GENERAL.—No financial services holding company may permit any bank subsidiary of such company, or any subsidiary of such bank, to provide insurance as a principal, agent or broker beyond the borders of the State in which the subsidiary bank is chartered unless such insurance activities in the nonchartering State are specifically authorized by the statutes of that State, by language to that effect and not merely by implication.

"(B) CONTINUATION OF PRIOR ACTIVITIES.—Notwithstanding subparagraph (A) or paragraph (5), any financial services holding company (or any successor of such company), or any bank subsidiary of a financial services holding company (and any subsidiary of any such bank subsidiary) may continue insurance activities otherwise prohibited by subparagraph (A) on an interstate basis—

"(i) so long as those coverages insure against the same types of risks, or are otherwise functionally equivalent to, coverages provided on or before June 1, 1991;

"(ii) to the extent that those activities were lawful and not the subject of legal challenge on that date; and

"(iii) subject to State regulation and control.

"(7) NONBANK ACTIVITIES OF SAVINGS ASSOCIATION SUBSIDIARIES.—

"(A) ACTIVITIES ALLOWED.—Notwithstanding any other provision of this section (other than paragraph (5) and subsection (f)), any qualified savings association and any subsidiary of any such association which is acquired by any financial services holding company after June 1, 1991, may engage in any activity, after such acquisition, in which any Federal savings association or any subsidiary of any Federal savings association may engage in accordance with the Home Owners' Loan Act and regulations prescribed pursuant to such Act.

"(B) QUALIFIED SAVINGS ASSOCIATION DEFINED.—For purposes of subparagraph (A), the term 'qualified savings association' means any savings association which—

"(i) was chartered or organized as a savings association before June 1, 1991;

"(ii) had, immediately before the acquisition of such association by the financial services holding company referred to in subparagraph (A), a ratio of tier 1 capital to total assets of 2 percent or less; and

"(iii) will become a level 1 or level 2 depository institution as a result of such acquisition.

"(8) NOTICE OF NEW DETERMINATIONS.—Whenever the Board makes a determination under subsection (c)(8) that any activity is an activity of a financial nature, the Board shall publish in the Federal Register, not later than 7 days after such determination is made, the regulation or order by which such determination has been made and a description of the activity.

"(j) PROVISIONS APPLICABLE TO HOLDING COMPANIES WITH SECURITIES AFFILIATES.—

"(1) TRANSFER OF NEW SECURITIES ACTIVITIES OUT OF DEPOSITORY INSTITUTION.—Any financial services holding company that controls or acquires control of a securities affiliate shall not, after the end of the 1-year period beginning on the date of the acquisition, permit any insured depository institution subsidiary of such holding company to engage, directly or indirectly, in the United States in activities described in any subparagraph of subsection (c)(15) except to the extent that such activities—

"(A) are specifically authorized by statute for a national bank or authorized by a regulation prescribed or an order, interpretation, or approval issued by the Comptroller of the Currency pursuant to that statute before the date of the enactment of the Financial Institutions Safety and Consumer Choice Act of 1991; and

"(B) do not involve the underwriting or distributing by any national bank of securities backed by or representing an interest in mortgages or other assets originated or purchased by the national bank or any affiliate of the bank.

"(2) SECURITIES ACTIVITIES INVOLVING STATE OR MUNICIPAL OBLIGATIONS.—Notwithstanding paragraph (1), a financial services holding company which controls or acquires control of a securities affiliate shall—

"(A) not permit, after the end of the 1-year period beginning on the date of the acquisition, an insured depository institution subsidiary of such company to underwrite or deal in obligations issued by any State or any political subdivision of any State; and

"(B) permit the activities described in subparagraph (A) to be conducted only by a securities affiliate in accordance with subsection (c)(15).

"(3) BROKER-DEALER ACTIVITIES.—Notwithstanding paragraph (1), effective January 1, 1993, a financial services holding company which controls or acquires control of a securities affiliate shall not permit an insured depository institution subsidiary of such company to operate as a broker or dealer that is required to register under the Securities Exchange Act of 1934.

"(4) CERTAIN INVESTMENT COMPANY SECURITIES.—Notwithstanding paragraph (1), effective January 1, 1993, a financial services holding company which controls or acquires control of a securities affiliate shall not permit an insured depository institution subsidiary of such company to sponsor, organize, promote, or control, or to underwrite the securities, shares, or units of participation issued by, a registered investment company containing assets described in section 408 of the Internal Revenue Code (26 U.S.C. 408).

"(5) AGENCIES OF FOREIGN BANKS SUBJECT TO THIS SUBSECTION.—For purposes of this section, a branch or agency of a foreign bank or a commercial lending company controlled by a foreign bank (as the terms 'branch', 'agency', and 'commercial lending company' are defined in section 1 of the International Banking Act of 1978) shall be treated as a bank.

"(k) NOTICE PROCEDURES FOR NONBANKING ACTIVITIES.—

"(1) GENERAL NOTICE PROCEDURE.—

"(A) NOTICE REQUIREMENT.—No financial services holding company may engage in any nonbanking activity or acquire or retain ownership or control of the shares of a company engaged in qualified financial activities without providing the Board with written notice of the proposed transaction or activity at least 45 days before the transaction or activity is proposed to occur or commence.

"(B) CONTENTS OF NOTICE.—The notice submitted to the Board shall contain such information as the Board shall prescribe by regulation or by specific request in connection with a particular notice.

"(C) PROCEDURE FOR AGENCY ACTION.—

"(i) NOTICE OF DISAPPROVAL.—Any notice filed under this subsection shall be deemed to be approved by the Board unless, before the end of the 45-day period beginning on the date the Board receives a complete notice under subparagraph (A), the Board issues an order disapproving the transaction or activity and setting forth the reasons for disapproval.

"(ii) EXTENSION OF PERIOD.—The Board may extend the 45-day period referred to in clause (i) for an additional 45 days.

"(D) APPROVAL BEFORE END OF PERIOD.—

"(i) IN GENERAL.—Any transaction or activity may commence before the expiration of any period for disapproval established under this paragraph if the Board issues a written notice of approval.

"(ii) SHORTER PERIODS BY REGULATION.—The Board may prescribe regulations which provide for no notice under this paragraph or for a shorter notice period with respect to particular activities or transactions, except that the Board may not provide for no notice with respect to activities or transactions described in subsection (c)(15).

"(E) EXTENSION OF PERIOD.—In the case of any notice to engage in, or to acquire or retain ownership or control of shares of any company engaged in, any activity pursuant to subsection (c)(8) that has not been previously approved by order or regulation, the Board may extend the notice period under this subsection for an additional 90 days.

"(2) GENERAL STANDARDS FOR REVIEW.—

"(A) CRITERIA.—In connection with a notice under this subsection, the Board may consider the following criteria:

"(i) The managerial resources of the companies involved.

"(ii) The adequacy of the companies financial resources, including capital, giving consideration to the financial resources and capital of others engaged in similar activities.

"(iii) Any material adverse effect on the safety and soundness or financial condition of any insured depository institution affiliate.

"(iv) Whether, in the case of notice for approval involving activities under subsection (c)(8) or (c)(15), performance of the activity by a financial services holding company or a subsidiary of such company can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.

"(B) REQUIREMENTS FOR DISAPPROVAL.—The Board shall not approve any proposed transaction under this subsection if the Board determines that any insured depository institution subsidiary of the financial services holding company is engaging in any unsafe and unsound practice or is in an unsafe and unsound condition.

"(l) ADDITIONAL CAPITAL REQUIREMENTS FOR NEW FINANCIAL ACTIVITIES.—The Board shall disapprove a notice to engage in, or acquire or retain the shares of a company engaged in, a new financial activity unless the company filing the notice is a level 1 financial services holding company.

"(m) MAINTENANCE OF HIGHER CAPITAL.—

"(1) CAPITAL MUST BE PROMPTLY RESTORED.—Any financial services holding company that engages, directly or through any subsidiary, in any new financial activity, and that ceases to qualify as a level 1 financial services holding company, shall before the end of the 60-day period beginning on the date such company ceases to qualify as a level 1 financial services holding company—

"(A) restore the capital of insured depository institution subsidiaries of such company in an amount sufficient for such company to requalify as a level 1 financial services holding company; or

"(B) submit a capital plan to the Board that will restore the relevant capital measures to the level necessary to requalify as a level 1 financial services holding company.

"(2) FAILURE TO RESTORE CAPITAL OR IMPLEMENT A CAPITAL PLAN.—If a holding company described in paragraph (1) fails to take the actions described in subparagraphs (A) or (B) of paragraph (1) or if the capital plan submitted under paragraph (1) is not approved by the Board or if the company fails to implement the capital plan, the holding company shall—

"(A) divest any interest in all insured depository institution subsidiaries that do not meet all currently applicable capital standards; or

"(B) terminate all new financial activities and divest any interest in any subsidiary engaged in any such activity.

"(3) ESTABLISHMENT AND IMPLEMENTATION REQUIRED.—

"(A) IN GENERAL.—The Board shall prescribe regulations to carry out the requirements of this section, including the establishment of capital standards and minimum capital requirements for financial services holding companies and deadlines for submission and review of plans.

"(B) DEADLINE FOR REGULATIONS.—The Board shall, after notice and opportunity for comment, prescribe final regulations under subparagraph (A) which regulations shall be final not later than January 1, 1993.

"(C) COORDINATION WITH THE FEDERAL DEPOSIT INSURANCE ACT.—The Board and the appropriate Federal banking agencies shall coordinate the application of this subsection with the provisions of sections 5(e) and 38 of the Federal Deposit Insurance Act.

"(4) NOTICE TO OTHER FUNCTIONAL REGULATORS.—Before any holding company is required, pursuant to paragraph (2) of this subsection, to divest any interest in, or terminate any activities of, a company that is required to register with the Securities and Exchange Commission as a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser, the Board shall provide timely notice to the Securities and Exchange Commission and, in the case of any other company which is subject to any financial responsibility or capital requirements, any functional regulator of such company.

"(n) LIMITATIONS ON ACTIVITIES OF FINANCIAL SERVICES HOLDING COMPANIES.—

"(1) CONSUMER PROTECTION PROVISIONS.—

"(A) DISCLOSURE BY INSURED DEPOSITORY INSTITUTION WITH RESPECT TO SECURITIES ACTIVITIES OF AFFILIATE.—No insured depository institution controlled by a financial services holding company, and no subsidiary of such insured depository institution, shall offer to any customer an opinion on the value of, or the advisability of purchasing or selling, any security or other product or service of which a securities affiliate of such financial services holding company is an underwriter or which such securities affiliate sells, or offers for sale, or in which such securities affiliate makes a market, unless the insured depository institution or subsidiary provides a 1-time written notice to the customer in accordance with such requirements as the Board may, in consultation with the Securities and Exchange Commission, prescribe by regulation, stating—

"(i) that the securities affiliate is an affiliate of the insured depository institution or subsidiary;

"(ii) that the securities affiliate—

"(I) is not an insured depository institution; and

"(II) is a separate corporate entity with respect to any insured depository institution (or any subsidiary of such institution) which is an affiliate of such securities affiliate;

"(iii) that the securities or other products or services underwritten, sold, offered, or recommended by the securities affiliate—

"(I) are not deposits which are federally insured by the Federal Deposit Insurance Corporation;

"(II) are not instruments which are guaranteed as to either principal or interest by an insured depository institution affiliate of such subsidiary; and

"(III) are not otherwise obligations of any insured depository institution; and

"(iv) if applicable, that the securities affiliate underwrote or makes a market in the securities.

"(B) CUSTOMER ACKNOWLEDGMENT OF DISCLOSURE.—

"(i) IN GENERAL.—Whenever any insured depository institution or subsidiary of an insured depository institution is required under subparagraph (A), to make disclosures to a customer, such insured depository institution, or subsidiary, or affiliate, as the case may be, shall obtain a written acknowledgment of receipt by the customer of such disclosures, including the date of receipt and the customer's name, address, and account number.

"(ii) SPECIAL RULE FOR ACCREDITED INVESTORS.—In the case of any customer who is, or meets the requirements for, an accredited investor (as defined in section 2(15) of the Securities Act of 1933)—

"(I) the acknowledgment of the receipt of any disclosure described in clause (i) shall be obtained pursuant to such clause by the insured depository institution or securities affiliate referred to in such clause at the time any account is opened by such customer; and

"(II) the institution or the securities affiliate shall not be required to obtain such an acknowledgment from such customer pursuant to clause (i) in connection with any subsequent transaction with respect to such account.

"(C) DISCLOSURES OF CONFIDENTIAL CUSTOMER INFORMATION PROHIBITED.—

"(i) IN GENERAL.—No insured depository institution subsidiary of a financial services holding company may disclose, directly or indirectly, any confidential customer information to any person (as defined in section 1 of title 1, United States Code), including any other affiliate, without the prior written consent of the customer. For purposes of this subparagraph, the term 'affiliate' includes a separately identifiable department or division of an insured depository institution that is registered as an investment adviser pursuant to the Investment Advisers Act of 1940.

"(ii) RECORDS OF CUSTOMER CONSENT.—Whenever any insured depository institution obtains the prior written consent of a customer for purposes of clause (i), such company shall—

"(I) obtain an acknowledgment of such consent by the customer, including the date the consent was acknowledged and the customer's name, address, and any applicable account number;

"(II) obtain such consent separately from any other authorization or consent of the customer;

"(III) inform the customer that the consent is not required as a condition for the performance of services for the customer; and

"(IV) maintain records of compliance with subclauses (I), (II), and (III).

"(iii) CUSTOMER DEFINED.—

"(I) IN GENERAL.—For purposes of this subparagraph, the term 'customer' means any person who, after the date of enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, establishes a deposit, trust, or credit relationship with an insured depository institution or purchases any service or financial product from such institution.

"(II) TREATMENT OF CERTAIN DEPOSITS.—Any renewal of an account in an insured depository institution and any rollover of a deposit in any such account shall be treated as the establishment of a new deposit relationship for purposes of subclause (I).

"(D) CONFIDENTIAL CUSTOMER INFORMATION DEFINED.—For purposes of subparagraph (C), the term 'confidential customer information' means financial information regarding any specific individual which has been derived from any record of any insured depository institution and pertains to the individual's relationship with the institution.

"(E) CERTAIN INFORMATION NOT INCLUDED IN DEFINITION.—Notwithstanding subparagraphs (C) and (D), the term 'confidential customer information' shall not include—

"(i) any information obtainable from an unaffiliated credit bureau or similar entity or information obtainable in the ordinary course of business from any other unaffiliated entity;

"(ii) any information provided to any credit bureau or similar entity in the ordinary course of business;

"(iii) any information obtainable in connection with insurance—

"(I) which is limited to assuring the repayment of the outstanding balance due on an extension of credit in the event of the death, disability, or involuntary unemployment of the debtor;

"(II) on real or personal property obtained by or on behalf of an insured depository institution in the event a debtor has failed to provide reasonable evidence of required insurance in accordance with an extension of credit; or

"(III) to assure the repayment of outstanding balances due in connection with an extension of credit in the event of the loss or damage to property used as collateral on such extension of credit;

"(iv) any information provided—

"(I) to any appropriate Federal regulatory agency; or

"(II) in accordance with the Right to Financial Privacy Act of 1978 to any Government authority (as defined in section 1101(3) of such Act); and

"(v) financial information the use of which (by an insured depository institution, any affiliate of such institution, or any agent of or contractor with such institution or affiliate) is limited to the performance of—

"(I) any function which is necessary to maintain a customer's existing deposit, trust, or credit account with the institution, including the collection of any amount due the institution by the customer with respect to any such account; or

"(II) due diligence evaluations in connection with the purchase or sale of loan assets or servicing rights.

"(F) DISCLOSURE OF CUSTOMER INFORMATION.—In addition to any requirement or limitation contained in this section, the Board may prescribe regulations limiting disclosures of nonpublic customer information from any insured depository institution to any affiliate of such institution, including an evaluation of the creditworthiness of an issuer or other customer of that insured depository institution or any subsidiary or financial or insurance affiliate of such institution.

"(2) CUSTOMER'S SIGNED STATEMENT RELATING TO UNINSURED DEPOSITS.—

"(A) IN GENERAL.—In addition to any disclosure required under paragraph (1), in connection with—

"(i) any sale of any instrument or financial product by any insured depository institution, or any affiliate of such institution, that does not constitute an insured deposit;

"(ii) any acceptance of a deposit by such institution or affiliate that is not an insured deposit; or

"(iii) any other transaction which results in the acquisition of any such obligation, instrument, or product from the institution or affiliate,

the institution or affiliate shall obtain from the purchaser, depositor, or acquirer, before the completion of the sale, deposit, or transaction, a separate statement, signed and dated by such person, which contains the following declaration in not less than 18-point bold-face type: 'I understand that this is not an insured deposit. The United States Government does not guarantee it. If [*name of institution or affiliate*] fails, I know that I may lose some or all of my money.'.

"(B) EXCEPTION.—The provisions of this paragraph shall not apply with respect to any transaction—

"(i) effected by a broker or dealer registered under the Securities Exchange Act of 1934;

"(ii) involving an insurance activity of any affiliate of an insured depository institution which is not itself an insured depository institution or a subsidiary of such institution if the transaction—

"(I) is not engaged in on the premises of any insured depository institution (including any branch) or any subsidiary of such institution;

"(II) is not engaged in by the affiliate in connection with any joint marketing activities between the affiliate and any such institution or subsidiary; and

"(III) does not otherwise involve any such insured depository institution or subsidiary; or

"(iii) consisting of any loan or other extension of credit by the insured depository institution or affiliate.

"(3) REGULATIONS RELATING TO MISLEADING AND DECEPTIVE PRACTICES.—The appropriate Federal banking agencies shall prescribe regulations jointly to prohibit any insured depository institution from employing any advertisement that would mislead or otherwise cause a reasonable person to believe mistakenly that the institution or the Federal Government is responsible for the activities of an affiliate of the institution, stands behind the affiliate's credit, guarantees any returns on securities or insurance products sold by the affiliate, or is a source of payment of any obligation of or sold by the affiliate.

"(4) REQUIREMENTS APPLICABLE IN THE CASE OF FINANCIAL SERVICES HOLDING COMPANIES WITH SECURITIES AFFILIATES.—

"(A) CERTAIN FINANCIAL TRANSACTIONS OF INSURED DEPOSITORY INSTITUTIONS PROHIBITED.—Notwithstanding any provision of subparagraph (E), no insured depository institution subsidiary of a financial services holding company may directly or indirectly engage in any of the following with respect to its securities affiliate:

"(i) Except as provided in subparagraph (C), extend credit to such securities affiliate.

"(ii) Issue a guaranty, acceptance, or letter of credit, endorsement, asset purchase agreement, indemnity, insurance, or other credit instrument or facility, including a standby letter of credit, to or for the benefit of such securities affiliate.

"(iii) Purchase for the insured depository institution's own account, or for the account of any subsidiary of the institution, any financial asset of such securities affiliate that is not a security of the United States or any agency of the United States or a security on which the principal and interest are fully guaranteed by the United States or any such agency.

"(iv) Purchase for the insured depository institution's own account, or for the account of any subsidiary of the institution, any security (other than securities issued by an open-end investment company or a unit investment trust) of which such securities affiliate is an underwriter or a member of the selling group, or which such securities affiliate otherwise places, until—

"(I) in the case of an underwriting, 60 days after the end of the underwriting period; or

"(II) in the case of a placement, 60 days after completion of the placement.

"(v) Purchase for a customer account in which the insured depository institution or its subsidiary, acting as fiduciary, is authorized to determine the securities to be purchased or sold, any security (other than securities issued by an open-end investment company or a unit investment trust) of which such securities affiliate is an underwriter or a member of the selling group or which such securities affiliate otherwise places until—

"(I) in the case of an underwriting, 90 days after the end of the underwriting period; or

"(II) in the case of a placement, 90 days after completion of the placement.

The provisions of this clause (v) apply whether or not such purchase is authorized by any trust agreement or any other instrument authorizing the insured depository institution or subsidiary to act in such capacity, unless such purchase is permitted by State law, is explicitly authorized in the trust agreement or other instrument establishing the fiduciary relationship, and is effectuated by endorsement by the creator of the trust of a separate document that discloses (in accordance with regulations prescribed by the Board) any conflict of interest that an insured depository institution may have in making such purchase. Notwithstanding any provision of Federal or State law, if the creator of any trust agreement or other instrument referred to in the preceding sentence is incapable of providing the authorization or effectuating an endorsement referred to in such sentence, every beneficiary of such trust or instrument shall provide such authorization or effectuate such endorsement.

"(vi) Extend credit to any investment company which is sponsored, organized, controlled, promoted, or advised by such securities affiliate or the depository institution (including a separately identifiable department or division thereof) or any subsidiary of such institution, except as permitted by regulations prescribed by the Commission pursuant to section 18(f)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-18(f)(3)).

"(vii) Extend credit, or arrange for the extension of credit, or issue a guaranty, acceptance, letter of credit, endorsement, asset purchase agreement, indemnity, insurance, or other credit instrument or facility, including a standby letter of credit, to an issuer of securities for which the securities affiliate is underwriting or placing any security for the purpose of paying, in whole or in part, the principal of, or any interest or dividends on, those securities.

"(viii) Extend credit to a customer of a securities affiliate for the purpose of repaying, in whole or in part, credit extended to such customer by the securities affiliate.

"(ix) Except as provided in subparagraph (G), extend credit, arrange for the extension of credit, or issue a guaranty, acceptance, letter of credit, endorsement, asset purchase agreement, indemnity, insurance, or other credit instrument or facility, including a standby letter of credit, to or for the benefit of the issuer of any security of which such securities affiliate is an underwriter or a member of the selling group, or which the securities affiliate otherwise places, until—

"(I) in the case of an underwriting, 90 days after the end of the underwriting period; or

"(II) in the case of a placement, 90 days after completion of the placement.

"(x) Except as provided in subparagraph (F), sell any financial asset of the depository institution or a subsidiary thereof to such securities affiliate that is not a security of the United States or any agency of the United States or a security on which the principal and interest are fully guaranteed by the United States or any such agency.

"(B) CERTAIN FINANCIAL TRANSACTIONS OF HOLDING COMPANIES AND SUBSIDIARIES DURING DISTRIBUTIONS PROHIBITED.—No financial services holding company and no subsidiary of a financial services holding company (other than a securities affiliate) may, directly or indirectly, extend credit or arrange for the extension of credit to any person, if such credit is secured by, or is used to purchase, any security that is the subject of a distribution or placement in which a securities affiliate of such financial services holding company participates as an underwriter or member of the selling group or which the securities affiliate otherwise places (other than securities issued by an open-end investment company or unit investment trust or securities of the United States or any agency of the United States or securities on which principal and interest are fully guaranteed by the United States or any such agency) until 30 days after the end of the period in which such security is the subject of such distribution or placement.

"(C) EXCEPTION FOR INTRADAY EXTENSIONS OF CREDIT IN CONNECTION WITH CLEARING GOVERNMENT SECURITIES.—Subparagraph (A)(i) shall not apply with respect to any extension of credit which is made for the purchase or sale of any securities of the United States or any agency of the United States or any securities on which the principal and interest are fully guaranteed by the United States or any such agency, if—

"(i) the extension of credit is to be repaid on the same calendar day;

"(ii) the extension of credit is incidental to the clearing of transactions in those securities through such institution or any subsidiary; and

"(iii) both the principal of, and the interest on, the extension of credit are fully secured, on a market value basis, by securities of the United States or any agency of the United States or securities on which the principal and interest are fully guaranteed by the United States or any such agency.

"(D) PROHIBITIONS ON DISCRIMINATORY CREDIT TREATMENT.—

"(i) IN GENERAL.—No insured depository institution subsidiary of a financial services holding company shall—

"(I) extend or deny credit or services (including clearing services), or vary the terms or conditions thereof, if the effect of such action would be to treat an unaffiliated entity less favorably than any of such institution's affiliates, unless the extension of credit or denial is based on objective criteria and is consistent with sound business practices; or

"(II) extend or deny credit or services or vary the terms or conditions for any such credit or services with the intent of creating a competitive advantage for any of the institution's affiliates.

"(ii) MONITORING OF CLEARING SERVICES REQUIRED.—The Board shall monitor, on at least an annual basis, the availability of United States Government securities clearing services to companies that are brokers and dealers registered under the Securities Exchange Act of 1934 and not affiliated with an insured depository institution, and the price, terms, and conditions of such services.

"(iii) REQUIREMENTS IF CLEARING SERVICES BECOME UNAVAILABLE.—If the Board determines that the services described in clause (ii) have, or are likely to become, unavailable, or are available at prices, terms, or conditions that do not generally permit brokers and dealers that are not affiliated with an insured depository institution a reasonable opportunity to compete in the United States Government securities market, the Board shall—

"(I) require insured depository institutions to offer such services at reasonable prices, terms, and conditions to unaffiliated registered brokers and dealers;

"(II) provide such companies direct access to the wire transfer system for the purpose of clearing these securities under terms and conditions that protect the Reserve Bank from loss associated with the clearing credit;

"(III) take such other action as the Board determines to be appropriate to permit registered brokers and dealers that are not affiliated with an insured depository institution to obtain clearing services at reasonable prices, terms, and conditions; or

"(IV) propose legislation to the Congress to prevent or remedy the unavailability of such services.

"(E) REVIEW OF INTRAHOLDING COMPANY TRANSFERS.—

"(i) NOTICE REQUIRED.—No financial services holding company and, subject to subparagraph (A), no subsidiary of a financial services holding company (other than a securities affiliate) may extend credit (not otherwise prohibited under this Act) to, transfer financial assets to, or make an equity investment in, any securities affiliate without prior notice to the Board in accordance with regulations prescribed by the Board.

"(ii) PROHIBITION ON CERTAIN TRANSACTIONS.—The Board may prohibit any transaction described in clause (i) if the Board determines that such transaction would affect the financial resources of the financial services holding company to such an extent that the transaction would be likely to significantly impair or diminish the ability of the financial services holding company to take any action necessary to comply with any capital, financial, or regulatory requirement applicable to any insured depository institution subsidiary of such company.

"(iii) EQUITY INVESTMENTS PROHIBITED.—Notwithstanding any other provision of law, no insured depository institution may make an equity investment in its securities affiliate.

"(F) ASSET PURCHASES FROM AFFILIATED BANK, INSURED INSTITUTION, OR SUBSIDIARY THEREOF.—

"(i) IN GENERAL.—An insured depository institution may, notwithstanding subparagraph (A)(x) of this paragraph but subject to section 23B of the Federal Reserve Act, sell any asset of such institution or any subsidiary of such institution for the purpose of including such asset in a pool of assets for the purpose of issuing asset-backed securities if—

"(I) those securities are rated as investment grade by at least 1 unaffiliated, nationally recognized statistical rating organization;

"(II) those securities are issued or guaranteed by a government sponsored enterprise which the Board has determined by regulation to be permissible for purposes of this subclause;

"(III) those securities represent interests in securities described in subclause (II) of this clause;

"(IV) the price at which an equity security or the yield at which a debt security to be distributed to the public by the securities affiliate is established at a price no higher, or yield no lower, than that recommended by a qualified independent underwriter which has also participated in the preparation of the registration statement and the prospectus, offering circular, or similar document; or

"(V) those securities would not be the subject of a public offering and would be sold only to accredited investors, as defined in the Securities Act of 1933.

"(ii) REGULATIONS.—The Board, after consultation with the Commission, shall prescribe such regulations as may be necessary to ensure that transactions described in clause (i) comply with the requirements of this subparagraph.

"(iii) ASSET DEFINED.—For purposes of this subparagraph, the term 'asset' means any note, draft, acceptance, loan, lease, receivable, other obligation, or pools of any such obligations.

"(iv) QUALIFIED INDEPENDENT UNDERWRITER.—For purposes of this subparagraph, the term 'qualified independent underwriter' shall be defined by regulation prescribed by the Securities and Exchange Commission.

"(G) EXCEPTIONS TO CREDIT FACILITY LIMITATIONS.—

"(i) TIMING WINDOW AND PROCEDURAL COMPLIANCE EXCEPTIONS.—Notwithstanding subparagraph (A)(ix), an insured depository institution may provide a credit facility described in such subparagraph to an issuer described in such subparagraph if—

"(I) the credit facility was entered into at least 60 days before the commencement of the underwriting or placement, unless such credit facility had been entered into in anticipation of such underwriting or placement;

"(II) the credit facility is a renewal or extension, on the same or substantially the same terms and conditions, of a credit facility entered into by the institution with the same issuer not less than 2 years before the beginning of such 60-day period, and the securities affiliate of the insured depository institution is not a significant participant in the underwriting or placement (as such term is defined by rule or regulation of the Commission); or

"(III) the credit facility is extended in accordance with the requirements of clauses (ii) and (iii) of this subparagraph (G) and the depository institution and holding company are in compliance with clauses (iv), (v), and (vi) of this subparagraph.

"(ii) REGULATIONS TO PREVENT UNFAIR OR COERCIVE PRACTICES AND SUBSIDIES.—A credit facility complies with the requirements of this clause if the credit facility is in compliance with such regulations as the Board shall prescribe, after consultation with the Commission—

"(I) to prevent any insured depository institution from engaging in any coercive or unfair practice to induce any person to use the underwriting, distributing, or placing services of a securities affiliate; and

"(II) to prevent any insured depository institution from subsidizing the terms of the credit facility as an inducement to any person to use such services, or conditioning the provision of such credit facility on the use of such services.

"(iii) ARM'S LENGTH; NONDISCRIMINATION; APPROVAL BY MANAGEMENT..—A credit facility complies with the requirements of this clause if—

"(I) the insured depository institution determines the terms and conditions of such credit facility objectively on the basis of the same credit standards that the insured depository institution applies to extensions of credit facilities to a similarly-situated borrower whose securities are not underwritten or placed by any securities affiliate of the insured depository institution;

"(II) the terms and conditions of such credit facility (including credit standards, prices, maturities, interest rates, collateral, and amounts) do not discriminate in favor of an issuer described in subparagraph (A)(viii) and would, in good faith, be offered to, or would apply to, a similarly-situated borrower whose securities are not underwritten or placed by any securities affiliate of the insured depository institution;

"(III) senior management and, in the case of a significant credit facility, executive management, of the insured depository institution has approved, in writing, the specific terms and conditions of the credit facility; and

"(IV) if the insured depository institution is a significant participant in a credit facility that is extended during the period covered by subparagraph (A)(viii), or during the 60-day period preceding the commencement of the underwriting or placement, and a securities affiliate is a significant participant in the underwriting or placement (as such term is defined by rule or regulation of the Commission), the securities affiliate and the issuer certify to the Commission, in accordance with regulations prescribed by the Commission, that the issuer has not been subjected, as an inducement to such issuer's election to use the underwriting or placement services of such securities affiliate, to any coercive or unfair practice or conditioning of such facility in violation of the regulations prescribed by the Board under clause (ii) of this subparagraph, and that such securities affiliate and the issuer, respectively, do not know that the issuer obtained any subsidy on any such facility in violation of the regulations prescribed by the Board under such clause.

"(iv) MANAGEMENT PROCEDURES REQUIRED.—The board of directors of any financial services holding company that has a securities affiliate shall establish policies and procedures to ensure that the insured depository institution is aware when a credit facility would fall within the proscriptive time periods established by subparagraph (A)(viii).

"(v) REPORTS AND RECORDS CONCERNING CREDIT FACILITIES.—Each insured depository institution and each securities affiliate controlled by the financial services holding company shall maintain segregated records of all such credit facilities and related transactions in accordance with such regulations concerning format and other matters as the Board shall prescribe in consultation with the Commission. Such regulations shall be reasonably designed to require the insured depository institution and securities affiliate to maintain such records as are necessary to demonstrate, and to facilitate the determination by the Board and the Commission of, compliance with the requirements of this subparagraph (G). An insured depository institution shall provide to the Board and the Commission—

"(I) prompt notice concerning each significant credit facility subject to this subparagraph;

"(II) an annual report of all such credit facilities (together with the date, amount, and material terms) within 90 days following the end of the institution's fiscal year; and

"(III) such additional information as the Board or the Commission may request concerning any such credit facility.

Notwithstanding any other provision of law, neither the Board nor the Commission shall be compelled to disclose any information required to be kept or reported under this clause (v). Nothing in this clause shall authorize the Board or the Commission to withhold information from Congress, or to prevent the Board or the Commission from complying with a request for information from any other Federal department or agency requesting information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the Board or the Commission. For purposes of section 552 of title 5, United States Code, this clause shall be considered a statute described in subsection (b)(3)(B) of such section 552.

"(vi) REVIEW BY BOARD OF DIRECTORS.—The board of directors of each financial services holding company controlling a securities affiliate and the board or directors of each insured depository institution subsidiary of such a holding company shall—

"(I) review, no less frequently than annually, the holding company's procedures for compliance with the conditions of this subparagraph (G) for their continued appropriateness;

"(II) determine, no less frequently than quarterly, that all significant credit facilities entered into by the insured depository institution which are made in reliance on the provisions of clause (i)(II) of this subparagraph (G) were effected in compliance with such provisions; and

"(III) promptly notify the Board and the Commission of any transactions that are not in compliance with the conditions of this subparagraph (G).

"(vii) REGULATIONS.—The Board shall have the authority, in consultation with the Commission, to make such regulations as may be necessary or appropriate to implement the provisions of this subparagraph and may define the terms used herein, including (without limitation) the terms 'senior management', 'executive management', 'significant credit facility', and 'significant participant in a credit facility'. If the Commission comments in writing on a proposed regulation of the Board under this subparagraph (G) that has been published for comment, the Board shall respond in writing to such written comment before adopting such regulation. The Board shall, at the request of the Commission, publish such comment and response in the Federal Register at the time of publishing the adopted regulation. The Board and the Commission shall prescribe regulations under this subparagraph not later than October 1, 1992.

"(viii) DEFINITIONS.—As used in this subparagraph, the term 'credit facility' means an extension of credit, arrangement for the extension of credit, or issuance of a guaranty, acceptance, letter of credit, endorsement, asset purchase agreement, indemnity, insurance, or other credit instrument or facility, including a standby letter of credit.

"(H) DEFINITIONS.—For purposes of this paragraph the term 'insured depository institution' includes any subsidiary of the insured depository institution, other than an entity required to register with the Commission.

"(5) PROHIBITION ON RECIPROCAL ARRANGEMENTS WITHIN THE HOLDING COMPANY.—No affiliate of a financial services holding company shall engage in any transaction or reciprocal arrangement for the purpose of evading any restriction or limitation imposed under this section.

"(6) INTERLOCKING DIRECTORS, MANAGEMENT OFFICIALS, AND EMPLOYEES PROHIBITED.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), no financial services holding company may allow any director, management official, or employee of any securities affiliate controlled by such financial services holding company to serve at the same time as a director, management official, or employee of any insured depository institution subsidiary of such holding company or any subsidiary of any such institution.

"(B) BOARD AUTHORITY TO EXEMPT FROM SUBPARAGRAPH (A).—

"(i) IN GENERAL.—The Board may, by order or regulation issued after consultation with the Commission, grant exemptions from subparagraph (A) of this subsection.

"(ii) FACTORS TO BE CONSIDERED.—In determining whether to grant an exemption under clause (i), the Board shall consider—

"(I) the size of the financial services holding companies involved and the size of the depository institution subsidiaries and securities affiliate involved;

"(II) any burdens imposed by the application of subparagraph (A);

"(III) the safety and soundness of the depository institution subsidiaries and the securities affiliates of such financial services holding companies; and

"(IV) other appropriate factors, including unfair competition in securities activities and the improper exchange of confidential customer information.

"(iii) EXCEPTION FOR CERTAIN SMALL FINANCIAL SERVICES HOLDING COMPANIES.—

"(I) IN GENERAL.—The Board shall grant, by regulation, an exemption under clause (i) to allow a director, management official, or employee of any securities affiliate subsidiary of any financial services holding company the total banking assets of which do not exceed $500,000,000 to serve at the same time as a director, management official, or employee of any insured depository institution subsidiary of the company, or any subsidiary of such institution.

"(II) ANNUAL ADJUSTMENT FOR INFLATION.—The dollar amount of assets referred to in subparagraph (B)(i) shall be adjusted for inflation by the Board at the end of each calendar year beginning after December 31, 1991.

"(C) EXCEPTION FOR CERTAIN BACK OFFICE OPERATIONS.—Subparagraph (A) shall not apply to any employee, other than an officer or director, employed by the financial services holding company or any subsidiary of such company to perform clerical, accounting, bookkeeping, statistical, or similar functions, including the receipt or transmittal of electronic transfers, if such functions are performed—

"(i) in an office or other facility which is not open to the general public; and

"(ii) in a manner which is consistent with the requirements of this section as determined by the Board after consultation with the Commission.

"(D) MANAGEMENT OFFICIAL DEFINED.—The term 'management official' includes any officer and any employee with management functions (including a branch manager), any trustee of a business organization under the control of trustees (such as a mutual savings bank), and any person who has a representative or nominee serving in any such capacity.

"(7) PROHIBITION ON FAVORING CAPTIVE AGENTS.—

"(A) IN GENERAL.—An insured depository institution subsidiary of a financial services holding company may not, directly or indirectly—

"(i) require, as a condition to the sale of any product or the provision of any service, that a customer acquire or renew insurance through a particular insurance agent or broker;

"(ii) solicit the sale of insurance that is required under any loan or extension of credit unless the customer has been advised, in writing, of the antitying provisions of section 106 of the Bank Holding Company Act Amendments of 1970;

"(iii) solicit or permit any subsidiary, or any department or agent of such institution or subsidiary, which engages in any insurance activity to solicit, directly or indirectly, any customer of such institution or subsidiary to provide any insurance required under the terms of any loan or extension of credit (to such customer by such institution or subsidiary) before such customer has received a written commitment from such institution or subsidiary with respect to such loan or other extension of credit;

"(iv) in connection with a loan or extension of credit that requires a borrower to obtain insurance, reject an insurance policy solely because such policy has been issued or underwritten by any person who is not an affiliate of such subsidiary;

"(v) unless otherwise authorized by any applicable Federal or State law, require any debtor, insurer, broker, or agent to pay a separate charge in connection with the handling of a contract that requires insurance; or

"(vi) impose any requirement on any insurance agent who is not affiliated with the insured depository institution subsidiary that is not imposed on any affiliate of such subsidiary.

"(B) INSURANCE DEFINED.—For purposes of this paragraph, the term 'insurance' does not include insurance placed on real or personal property by a creditor in the event a customer has failed to provide reasonable evidence of required insurance in accordance with the terms of a loan or credit instrument.

"(8) AUTHORITY TO MODIFY AND IMPOSE ADDITIONAL SAFEGUARDS.—

"(A) IN GENERAL.—In order to preserve the safety and soundness of insured depository institution subsidiaries of financial services holding companies, and to ensure that the activities of any financial service holding company and any subsidiary of any such company (other than an insured depository institution subsidiary) are conducted without the support of insured depository institution affiliates, the Board—

"(i) may, by regulation or order, adopt additional limitations or restrictions on any extension of credit or financial assistance or any transaction which has the effect of providing financial assistance by any insured depository institution subsidiary of any financial services holding company to, or for the benefit of, any affiliate of such institution which is engaged in any new financial activity or any customer of such affiliate; and

"(ii) after consulting with and considering the views of the Commission, may modify by regulation any limitation on the activities of financial services holding companies and their affiliates contained in this subsection.

"(B) STANDARDS.—Any authority under subparagraph (A)(i) shall be exercised only after taking into account potential adverse effects of any extension of credit or other transaction referred to in such subparagraph, including unfair competition, conflicts of interest, and unsafe banking practices. Any exercise of authority under subparagraph (A)(ii) to modify any limitation on activities contained in this subsection shall be exercised only if the Board, after consulting with and considering the views of the Commission, concludes that modifying such limitation is necessary to achieve a purpose of this Act, is consistent with the purposes of this section, the public interest, and the protection of investors, and would not be likely to result in any adverse effects, including unfair competition, conflicts of interest, unsafe banking practices, or undue risks to the Federal deposit insurance funds.

"(9) DIVESTITURE FOR CONTINUING COURSE OF MISCONDUCT.—

"(A) NOTICE OF PRELIMINARY DETERMINATION.—

"(i) PRELIMINARY FINDING.—In addition to any other regulatory and supervisory authority of the Board, if the Board has reason to believe that a financial services holding company which controls a securities affiliate, or any subsidiary of such financial services holding company, has engaged in a continuing course of conduct involving a violation of this subsection, or regulations prescribed or orders issued by the Board pursuant to this subsection, the Board may make an initial determination that the financial services holding company shall be required to terminate such company's control of either (I) the insured depository institutions or the subsidiaries of such insured depository institutions, or (II) the securities affiliates, at the election of such company.

"(ii) NOTICE.—The Board shall notify any financial services holding company with respect to which a preliminary determination is made under clause (i) of this subparagraph of such determination before the end of the 3-day period beginning on the date on which the determination is made.

"(iii) CONTENTS OF NOTICE.—Any notice under clause (ii) of this subparagraph shall contain a statement of the basis for the Board's determination.

"(B) HEARING AND FINAL ORDER.—

"(i) REQUEST FOR HEARING.—Any financial services holding company which receives a notice under subparagraph (A)(ii) of this paragraph may request, at any time before the end of the 30-day period beginning on the date of the receipt of such notice, a hearing before the Board.

"(ii) ADJUDICATORY PROCEDURE AND FINAL ORDERS.—Any proceeding under this paragraph shall be conducted in accordance with section 8(h) of the Federal Deposit Insurance Act.

"(C) FAILURE TO REQUEST REVIEW.—If any financial services holding company which receives a notice under subparagraph (A)(ii) of this paragraph fails to request an agency hearing under subparagraph (B)(i) of this paragraph, such financial services holding company shall be deemed to have consented to the issuance of a final order affirming the initial determination without the necessity of the hearing provided for in this subsection.

"(D) DIVESTMENT WITHIN TIME SPECIFIED IN ORDER.—If any order issued by the Board under this paragraph becomes final and the order affirms the initial determination of the Board under subparagraph (A)(i), the financial services holding company shall make the election and terminate control as required by such order by the end of the period specified in such order.

"(10) DEFINITION.—For purposes of this subsection (n), the term 'Commission' means the Securities and Exchange Commission.

"(o) EXCEPTION FOR CERTAIN NONBANKING INVESTMENTS.—

"(1) IN GENERAL.—Notwithstanding subsection (a), a financial services holding company may own or control shares of any company engaged in activities not authorized pursuant to this section if—

"(A) the shares were acquired before September 30, 1991, the company on such date was an affiliate of an entity that is registered with the Securities and Exchange Commission as a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser, and the aggregate investment in all such shares does not exceed 5 percent of the financial services holding company's capital and surplus on a consolidated basis; or

"(B) the shares are acquired and held by a securities affiliate as part of a bona fide underwriting or investment banking activity if such shares are held only for such period of time as will permit the sale thereof on a reasonable basis consistent with the nature of such investment banking activity.

"(2) DIVESTITURE IN CASE OF LOSS OF EXEMPTION.—

"(A) PARAGRAPH (1)(A) EXEMPTION.—If the exemption established under paragraph (1)(A) ceases to apply to any financial services holding company, the company shall divest ownership and control of all of the shares of the company engaged in activities not authorized pursuant to this section within 180 days after the date on which such exemption ceases to apply.

"(B) PARAGRAPH (1)(B) EXEMPTION.—If the exemption established under paragraph (1)(B) ceases to apply to any financial services holding company, the company shall divest ownership and control of such shares within 15 days after the date on which such exemption ceases to apply.".

(b) CONFORMING AMENDMENTS.—Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) (as amended by subsection (a)) is amended—

(1) by striking "bank holding company" each place such term appears and inserting "financial services holding company";

(2) in subsection (c)(1)(A), by striking "banking subsidiary" each place such term appears and inserting "insured depository institution subsidiary";

(3) in subparagraphs (C) and (D) of subsection (c)(1), by striking "banking subsidiaries" each place such term appears and inserting "insured depository institution subsidiaries"; and

(4) in subsection (c)(4), by striking "acquired by a bank" and inserting "acquired by an insured depository institution".

(c) RULE OF CONSTRUCTION RELATING TO SECTION 4(c)(8) AMENDMENTS.—The amendments made by section (a) with respect to the removal of subparagraphs (A) through (G) from section 4(c)(8) of the Bank Holding Company Act to section 4(i)(5) of the Financial Services Holding Company Act—

(1) may not be construed as making any substantive change in the meaning of any provision of any such subparagraph (as in effect on the day before the effective date of such amendments); and

(2) shall not affect any regulation prescribed, order issued, or any action taken be-

fore the effective date of such amendments pursuant to any such subparagraph (as in effect on the day before such date).

SEC. 404. REGISTRATION AND ENFORCEMENT.

Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended to read as follows:

"SEC. 5. REGISTRATION AND ENFORCEMENT.

"(a) REGISTRATION OF FINANCIAL SERVICES HOLDING COMPANY.—

"(1) FILING PERIOD.—Within 180 days after becoming a financial services holding company, each financial services holding company shall register with the Board on forms prescribed by the Board, which shall include such information with respect to the financial condition and operations, management, and intercompany relationships of the holding company and the subsidiaries of such company, and related matters, as the Board may determine to be appropriate to carry out the purposes of this Act.

"(2) EXTENSION OF FILING PERIOD.—The Board may, in the Board's discretion, extend the time within which a financial services holding company shall register and file the requisite information.

"(b) REGULATIONS AND ORDERS.—

"(1) IN GENERAL.—The Board may prescribe such regulations and issue such orders as may be necessary to enable the the Board to administer and carry out the purposes of this Act and prevent evasions of the Act.

"(2) IMPLEMENTING REGULATIONS.—The initial regulations which are necessary to implement this section after the enactment of the Financial Institutions Safety and Consumer Choice Act of 1991 shall be proposed and prescribed by the Board and shall be published in final form before January 1, 1993.

"(c) RECORDS AND REPORTS.—

"(1) REPORTS OF FINANCIAL SERVICES HOLDING COMPANY AND INSURED DEPOSITORY INSTITUTIONS.—

"(A) IN GENERAL.—The Board may require any financial services holding company and any insured depository institution subsidiary of such company to file reports under oath with the Board to keep the Board informed as to whether such holding company or subsidiary has complied with the provisions of this Act and regulations prescribed and orders issued under this Act.

"(B) CONSULTATION.—With regard to any insured depository institution subsidiary of a financial services holding company, the Board shall consult with and, to the extent possible, use reports obtained by, any other appropriate Federal banking agency for such institution.

"(2) REPORTS OF FINANCIAL SERVICES HOLDING COMPANIES AND SUBSIDIARIES.—

"(A) IN GENERAL.—The Board may require a financial services holding company, and any subsidiary of such company (other than an insured depository institution), to file reports with the Board if the Board reasonably believes that the activities or financial condition of such holding company or subsidiary is likely to have a material impact on the financial or operational condition of any insured depository institution subsidiary of the company (or any subsidiary of the institution).

"(B) REGULATORY EFFICIENCY.— The Board shall consult with and, to the extent possible, use reports obtained by, any other functional regulator of any financial services holding company or subsidiary referred to in subparagraph (A) to obtain the necessary information. In the case of a subsidiary which is registered with the Commission as a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser, the Board shall comply with paragraph (5).

"(3) RECIPROCAL ACCESS.—

"(A) FUNCTIONAL REGULATOR.—The Board may provide access, on a reciprocal basis, for any other functional regulator of any financial affiliate of a financial services holding company, to any report (other than a report of examination) obtained by the Board under this subsection with respect to any financial services holding company subsidiary (including any insured depository institution subsidiary of any such company), if the other functional regulator reasonably believes that the activities or financial condition of such insured depository institution or financial services holding company is likely to have a material impact on the financial or operational condition of the financial affiliate.

"(B) OTHER BANKING AGENCY.—The Board may provide access on a reciprocal basis for any other appropriate Federal banking agency for an insured depository institution to any report (other than a report of examination) obtained by the Board under this subsection with respect to any affiliate of the insured depository institution, if such agency believes that the activities or financial condition of such affiliate is likely to have a material impact on the insured depository institution.

"(4) INFORMATION COORDINATION BETWEEN THE BOARD AND THE SEC.—The Board and the Securities and Exchange Commission shall adopt procedures to coordinate and provide for the cooperative exchange of information regarding entities under their respective jurisdiction as may be necessary to effectuate their regulatory responsibilities under this Act and the securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934). By January 1, 1993, the Board and the Securities and Exchange Commission shall report to Congress regarding the procedures adopted pursuant to this paragraph.

"(5) OBTAINING INFORMATION THROUGH SEC.—

"(A) BOARD REQUEST.—The Board may request the Commission to provide such information as may be reasonably necessary for the Board to conduct its supervisory responsibilities regarding an affiliate that is registered with the Commission as a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser.

"(B) COMMISSION RESPONSE.—In response to a request from the Board, the Commission shall use reasonable diligence to provide promptly to the Board such of the requested information regarding an affiliate referred to in subparagraph (A) as the Commission has available.

"(C) ADDITIONAL INFORMATION.—If the Board needs additional information regarding an affiliate referred to in subparagraph (A), the Board shall then request the Commission to obtain such information, through examinations or otherwise.

"(D) PROVISION OF ADDITIONAL INFORMATION.—In response to a request from the Board for additional information regarding an affiliate referred to in subparagraph (A), the Commission shall use reasonable diligence to obtain such information, including, if necessary, by conducting an examination of the affiliate, and shall promptly provide to the Board such of the requested information as it has obtained.

"(E) BOARD ACTION.—If the Commission does not comply with a request by the Board under this paragraph with respect to an affiliate referred to in subparagraph (A), the Board may obtain such information from the affiliate.

"(6) RESTRICTION ON DISCLOSURE.—Any reports obtained from the Board, any appropriate Federal banking agency, or other functional regulator under this subsection shall not be disclosed to the public by the recipient agency or other regulator and shall not be disclosed to any other governmental agency except as otherwise permitted by law. Reports obtained under this subsection may be used only to carry out the purposes of this subsection or as otherwise permitted by law.

"(d) EXAMINATIONS.—

"(1) GENERAL EXAMINATIONS.—

"(A) HOLDING COMPANIES.—The Board may conduct examinations, including on-site examinations, of any financial services holding company, any insured depository institution subsidiary of such holding company, any subsidiary of such insured depository institution, and any other subsidiary of such financial services holding company.

"(B) CONSULTATION WITH OTHER AGENCIES.—When appropriate, the Board shall, in conducting an examination consult with, and to the extent possible, use any report of examination made by any other appropriate Federal banking agency, any appropriate State bank supervisor, or any other functional regulator with respect to any holding company, affiliate, or subsidiary referred to in subparagraph (A).

"(C) COST OF EXAMINATIONS.—The cost of any examination under this paragraph of any financial services holding company and any subsidiary of such holding company shall be assessed against, and paid by, the financial services holding company.

"(D) NOTICE TO SEC.—Before beginning any examination of any broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser, the Board shall notify the Commission of the examination and the Commission may accompany the Board and conduct its own examination.

"(2) FIREWALL EXAMINATIONS.—

"(A) FIREWALL EXAMINING AUTHORITY.—The Commission and each firewall examining authority shall have the authority, for the purposes of determining compliance with section 4(n) of this Act and section 15D of the Securities Exchange Act of 1934, to conduct examinations in accordance with this paragraph, including on-site examinations, of any financial services holding company, any insured depository institution subsidiary of such holding company, any subsidiary of such insured depository institution, and any other subsidiary of such financial services holding company.

"(B) COORDINATION OF EXAMINATIONS—

"(i) IN GENERAL.—In order to avoid unnecessary regulatory duplication and undue regulatory burdens, the Board and the Commission shall, to the maximum extent practicable, coordinate examinations conducted for the purposes of determining compliance with section 4(n) of this Act and section 15D of the Securities Exchange Act of 1934.

"(ii) FACTORS TO BE CONSIDERED.—In coordinating examinations pursuant to clause (i), the Board and the Commission shall consider—

"(I) the establishment of procedures for the sharing and use of information;

"(II) the minimum scope and frequency of such examinations; and

"(III) such additional procedures as the Board and the Commission determine will facilitate the administration and enforcement of section 4(n) of this Act and section 15D of the Securities Exchange Act of 1934.

"(iii) MINIMUM EXAMINATION REQUIREMENTS.—

"(I) HOLDING COMPANIES WITH SECURITIES AFFILIATES.—An examination of each financial services holding company that has an affiliate that is registered with the Commission as a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser, each insured depository institution subsidiary of such company, and each subsidiary of such institution for the purposes of determining compliance with section 4(n) of this Act and section 15D of the Securities Exchange Act of 1934 shall be conducted at least once during each 12-month period (beginning on the date on which the most recent examination of such company or subsidiary ended).

"(II) SECURITIES AFFILIATES.—An examination of each affiliate (of a holding campany described in subclause (I)) that is registered with the Commission as a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser for the purposes of determining compliance with section 4(n) of this Act and section 15D of the Securities Exchange Act of 1934 shall be conducted at least once each year by any general examining authority or firewall examining authority.

"(C) COOPERATION BETWEEN GENERAL EXAMINING AUTHORITY AND FIREWALL EXAMINING AUTHORITY.—The general examining authority with respect to any entity which is subject to section 4(n) of this Act or section 15D of the Securities Exchange Act of 1934 shall cooperate with each firewall examining authority for such entity to the maximum extent practicable with respect to the sharing and use of information and conducting examinations.

"(D) NOTICE OF SEPARATE FIREWALL EXAMS.—Whenever a firewall examining authority intends to conduct an examination of an entity for the purposes of determining compliance with section 4(n) of this Act or section 15D of the Securities Exchange Act of 1934, such firewall examining authority shall provide timely notice of such examination to each general examining authority for such entity and the general examining authority may accompany the firewall examining authority and conduct its own examination.

"(E) CONSULTATION WITH OTHER AGENCIES.—When appropriate, the firewall examining authority for any entity shall, in conducting an examination under subparagraph (A), consult with, and to the extent possible, use any reports or records of any general examining authority for such entity, any appropriate State bank supervisor, any State securities commission, or any other functional regulator.

"(F) COST OF EXAMINATIONS.—The cost of all or any part of any examination of any financial services holding company or any subsidiary of such holding company which is conducted by any firewall examining authority (with respect to such company or subsidiary) under this paragraph for the purposes of determining compliance with section 4(n) of this Act and section 15D of the Securities Exchange Act of 1934 shall be assessed against, and paid by, any affiliate of such company or subsidiary for which such authority is the general examining authority.

"(3) PROMPT NOTICE OF RESULTS.—Each general examining authority shall promptly inform each firewall examining authority, and each firewall examining authority shall promptly inform each general examining authority, of the results of any examination concerning compliance with section 4(n) of this Act or section 15D of the Securities Exchange Act of 1934.

"(4) DEFINITIONS.—As used in this subsection—

"(A) with respect to a financial services holding company that has an affiliate that is registered with the Commission as a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser; an insured depository institution subsidiary of such a financial services holding company; or a subsidiary of such an insured depository institution—

"(i) the Board and each appropriate Federal banking agency is a 'general examining authority'; and

"(ii) the Commission, and each securities self-regulatory organization of which such affiliate is a member, is a 'firewall examining authority';

"(B) with respect to any affiliate of a financial services holding company that is registered with the Commission as a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser—

"(i) the Commission, the Board, and each securities self-regulatory organization of which such affiliate is a member, is a 'general examining authority'; and

"(ii) each appropriate Federal banking agency (other than the Board) is the 'firewall examining authority';

"(C) the term 'Commission' means the Securities and Exchange Commission; and

"(D) the term 'securities self-regulatory organization' means a national securities exchange registered under section 6 of the Securities Exchange Act of 1934 or a securities association registered under section 15A of such Act.

"(e) TRANSFER OF RECORDS.—No agency or department transferring records pursuant to this section shall be deemed to have waived any privilege applicable to those records under law.

"(f) CEASE AND DESIST AUTHORITY; TERMINATION OF ACTIVITIES OR OWNERSHIP OR CONTROL OF NONBANK SUBSIDIARIES CONSTITUTING SERIOUS RISK.—

"(1) IN GENERAL.—In addition to any other authority of the Board, the Board may take any action described in paragraph (2) if the Board has reasonable cause to believe that any financial services holding company or any subsidiary of a financial services holding company (other than an insured depository institution), is engaged in activities in such a manner as to constitute a serious risk to the financial safety, soundness, or stability of any insured depository institution affiliate.

"(2) ACTIONS AUTHORIZED UNDER PARAGRAPH (1).—

"(A) CEASE AND DESIST FROM FINANCIAL ACTIVITIES.—Subject to paragraph (1) and in addition to any authority of the Board under section 8 of the Federal Deposit Insurance Act, the Board may issue a notice and institute proceedings under section 8(b) of the Federal Deposit Insurance Act or issue a temporary order under section 8(c) of such Act requiring any company described in paragraph (1) that is engaged in qualified financial activities and that is not a registered broker or dealer affiliate to—

"(i) cease and desist from such activity; and

"(ii) take affirmative action to prevent significant dissipation of assets or earnings of an insured depository institution affiliate.

"(B) ORDER TO INCREASE CAPITAL.—Subject to paragraph (1) and in addition to any authority of the Board under section 8 of the Federal Deposit Insurance Act, the Board may issue a notice and institute proceedings under section 8(b) of the Federal Deposit Insurance Act or issue a temporary order under section 8(c) of such Act requiring any financial services holding company described in paragraph (1) to increase the capital of such company.

"(C) TERMINATION OF AFFILIATION.—

"(i) AUTHORITY TO ISSUE ORDER.—If any company described in paragraph (1) fails to comply with any order issued pursuant to subparagraph (A) or (B), the Board (after due notice and opportunity for hearing in accordance with section 8(h) of the Federal Deposit Insurance Act and after considering the views of the appropriate Federal banking agency for the insured depository institution subsidiary of such company and any appropriate State bank supervisor, in the case of a State depository institution) may order such company to terminate (within 120 days, or such longer period as the Board may direct in unusual circumstances) the ownership or control of either (I) the insured depository institution, or (II) any affiliate described in paragraph (1) (other than an insured depository institution), at the election of such holding company, by sale to any third party or by distribution of the shares of the affiliate to the shareholders of the financial services holding company.

"(ii) TERMINATION ORDERS FOR BROKER-DEALER AFFILIATES.—If the Board makes the finding described in paragraph (1) with respect to an affiliate that is a registered broker or dealer, the Board (after due notice and opportunity for a hearing in accordance with section 8(h) of the Federal Deposit Insurance Act and after considering the views of the Securities and Exchange Commission) may order the holding company to terminate the ownership or control of such broker or dealer in the same time periods and by the same methods as is required for an order under clause (i).

"(iii) PRO RATA DISTRIBUTION.—Any distribution of shares under clause (i) shall be made pro rata with respect to all of the shareholders of the distributing, and no financial services holding company may make any charge to its shareholders arising out of such a distribution.

"(3) ENFORCEMENT OF ORDERS.—The Board may apply to the United States district court within the jurisdiction of which the principal office of any financial services holding company is located, for the enforcement of any effective and outstanding order issued under this section, and such court shall have jurisdiction and power to order and require compliance with such order, but no court shall have jurisdiction to effect by injunction or otherwise the issuance or enforcement of any notice or order under this section, or to review, modify, suspend, terminate, or set aside any such notice or order, except as provided in section 9.

"(g) ENFORCEMENT COORDINATION.—

"(1) ENFORCEMENT COORDINATION REQUIRED.—

"(A) IN GENERAL.—The Commission and the Board shall use reasonable efforts to coordinate enforcement proceedings involving financial services holding companies, insured depository institution affiliates, and securities affiliates for violations of the requirements of section 4(n) of this Act and section 15D of the Securities Exchange Act of 1934.

"(B) NOTICE OF VIOLATION REQUIREMENT.—The Board and the Commission—

"(i) shall each inform the other of any violation or suspected violation of any requirement of section 4(n) of this Act and section 15D of the Securities Exchange Act of 1934; and

"(ii) may recommend such enforcement action with respect to any such violation as the Board or the Commission, as the case may be, determines to be appropriate.

"(C) PROCEEDINGS; COPIES OF ORDERS.—To facilitate the coordination of the enforcement proceedings referred to in subparagraph (A), the Commission shall file with the Board a notice before the commencement of any such proceeding and a copy of any order entered after such proceeding by the Commission for any such violation, and the Board shall file with the Commission a notice before the commencement of any such proceeding and a copy of any order entered after such proceeding by the Board for any such violation.

"(2) PRESERVATION OF EXISTING AUTHORITY.—Nothing in this section shall be construed to limit any authority of the Board or the Commission under any other law.

"(h) ADMINISTRATIVE PROVISIONS.—

"(1) AUTHORITY TO ADMINISTER OATHS; SUBPOENA POWER.—In the course of, or in connection with, an application, examination, investigation, or other proceeding under this Act, the Board or any member or designated representative of the Board, including any person designated to conduct any hearing under this Act, may—

"(A) administer oaths and affirmations and take or cause to be taken depositions; and

"(B) issue, revoke, quash, or modify any subpoena, including any subpoena requiring the attendance and testimony of a witness or any subpoenas duces tecum.

"(2) ADMINISTRATIVE ASPECTS OF SUBPOENAS.—

"(A) ATTENDANCE AND PRODUCTION AT DESIGNATED SITE.—The attendance of any witness and the production of any document pursuant to a subpoena under paragraph (1) may be required at the place designated in the subpoena from any place in any State (as defined in section 3(a)(3) of the Federal Deposit Insurance Act) or other place subject to the jurisdiction of the United States.

"(B) SERVICE OF SUBPOENA.—Subject to subparagraph (C)(ii), service of a subpoena issued under this subsection may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Board may provide.

"(C) SUBPOENAS ISSUED TO PERSONS WITHOUT THE UNITED STATES.—

"(i) BOARD APPROVAL REQUIRED.—A subpoena issued under paragraph (1) may be served on a person who is not to be found in the United States only if the subpoena has been issued by, or with the prior approval of, the Board.

"(ii) SERVICE OF SUBPOENA.—A subpoena issued under paragraph (1) may be served upon any person who is not found within the territorial jurisdiction of any court in the United States in such manner as the Federal Rules of Civil Procedure prescribe for service of process in a foreign country.

"(3) CONTUMACY OR REFUSAL.—

"(A) IN GENERAL.—In the case of contumacy of any person issued a subpoena under this subsection or a refusal by such person to comply with such subpoena, the Board or any other party to proceedings in connection with which such subpoena was issued may invoke the aid of—

"(i) the United States District Court for the District of Columbia, or

"(ii) any district court of the United States within the jurisdiction of which the proceeding is being conducted or the witness resides or carries on business.

"(B) COURT ORDER.—Any court referred to in subparagraph (A) may issue an order requiring compliance with a subpoena issued under this subsection.

"(4) EXPENSES AND FEES.—Any court having jurisdiction of any proceeding instituted under this subsection may allow any party to such proceeding such reasonable expenses and attorneys' fees as the court deems just and proper.

"(5) CRIMINAL PENALTY.—Any person who willfully fails or refuses to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records in accordance with any subpoena under this subsection shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both.

"(6) REGULATIONS.—The Board may prescribe regulations to carry out the purposes of this subsection.

"(i) REPORT TO THE CONGRESS; RECOMMENDATIONS.—

"(1) REPORT.—The Board's annual report to the Congress shall include the results of the administration of this Act.

"(2) DIFFICULTIES AND RECOMMENDATIONS.—The report under paragraph (1) shall include—

"(A) a description of any substantial difficulties which have been encountered in carrying out the purposes of this Act; and

"(B) such recommendations for legislative action as the Board may determine to be appropriate.

"(j) DEFINITIONS.—As used in this section—

"(1) the term 'registered securities affiliate' means a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser that is registered with the Commission and that is a subsidiary of a financial services holding company; and

"(2) the term 'Commission' means the Securities and Exchange Commission.".

SEC. 405. RESERVATION OF RIGHTS TO STATES; PREEMPTION OF ANTI-AFFILIATION PROVISIONS.

Section 7 of the Bank Holding Company Act of 1956 (12 U.S.C. 1846) is amended to read as follows:

"SEC. 7. RESERVATION OF RIGHTS TO STATES; ANTI-AFFILIATION PROVISIONS.

"(a) RESERVATION OF RIGHTS.—No provision of this Act shall be construed as preventing any State from exercising such powers and jurisdiction which it now has or may hereafter have with respect to companies, insured depository institutions, financial services holding companies, and subsidiaries thereof.

"(b) PREEMPTION OF STATE LAW.—

"(1) IN GENERAL.—Notwithstanding subsection (a), no provision of law of any State, including any provision relating to the business of banking (including any law relating to savings associations), real estate, insurance, securities, finance, retail or other law regulating the provisions of financial or other services, shall prevent or impede or shall be interpreted or applied by any administrative, executive, or judicial authority for the purpose of, or in a manner which has the effect of, preventing or impeding—

"(A) any insured depository institution, any affiliate of such institution, or any representative of the institution or affiliate from being acquired, owned or controlled by, or from being affiliated in any manner with, any company which is or becomes a financial services holding company or with any affiliate of such company because of—

"(i) the types of activities engaged in, directly or indirectly, by the insured depository institution, any affiliate of the institution, or any representative of the institution or affiliate; or

"(ii) the types of activities engaged in, directly or indirectly, by the company, any affiliate of the company, or any representative of the company or affiliate;

"(B) any company which is or becomes a financial services holding company, any affiliate of such company, or any representative of the company or affiliate, from acquiring, owning, or controlling or being affiliated in any way with any insured depository institution or any affiliate of any such institution because of—

"(i) the types of activities engaged in, directly or indirectly, by the company, any affiliate of the company, or any representative of the company or affiliate; or

"(ii) the types of activities engaged in, directly or indirectly, by the insured depository institution, any affiliate of the institution, or any representative of the institution or affiliate; or

"(C) any insured depository institution, any affiliate of any such institution, or any representative of any such institution or affiliate from offering or marketing products or services of any financial services holding company of which such institution is an affiliate or any other affiliate of such company or from having the products or services of the insured depository institution offered or marketed by any affiliate of such institution or by any representative of such company or affiliate, except—

"(i) with regard to offering and marketing insurance in accordance with section 4(c)(8) and paragraphs (5) and (6) of section 4(i); and

"(ii) when the preemption of such State law would permit the offering, marketing, or sale of insurance products or services by an insured depository institution or any subsidiary of such institution if such activity would otherwise be prohibited by operation of State law.

"(2) NO PREEMPTION OF CERTAIN STATE CONSUMER PROTECTION LAWS.—Paragraph (1)(C) shall not exempt any company which is or becomes a financial services holding company, any affiliate of such company, or any representative of any such company or affiliate from complying with, or shall annul, alter, or affect the application of, the laws of any State relating to the examination, supervision, or regulation of providers of financial services or the protection of consumers, except to the extent that the intent, purpose, or effect of any such law is inconsistent with this subsection or with the purposes of this Act and then only to the extent of the inconsistency.

"(3) NO PREEMPTION OF CERTAIN STATE INSURANCE LAWS.—Paragraph (1)(C) shall not annul, alter, or affect the application of the laws of any State insofar as such laws relate to the conduct of insurance activities by a financial services holding company.

"(4) CONSISTENT LAWS NOT AFFECTED.—Notwithstanding any other provision of this subsection, a State shall not be preempted from enforcing any State law that prohibits any ownership, control, or activity that is prohibited by this Act.

"(5) INSURED DEPOSITORY INSTITUTION DEFINED.—For purposes of this subsection, the term 'insured depository institution' includes a branch, agency, or commercial lending company subsidiary of a foreign bank (as such terms are defined in section 1(b) of the International Banking Act of 1978).".

SEC. 406. PENALTIES.

Section 8 of the Bank Holding Company Act of 1956 (12 U.S.C. 1847) is amended—

(1) by striking "bank holding company" wherever such term appears and inserting "financial services holding company";

(2) in subsection (a)(2), by striking "profit significantly" and inserting "obtain anything of value";

(3) in section (a)(2), by striking "Every officer, director, agent" and all that follows; and

(4) in subsection (b)(1), by striking "forfeit and".

SEC. 407. CONFORMING AMENDMENTS TO SECTION 11.

Section 11 of the Bank Holding Company Act of 1956 (12 U.S.C. 1849) is amended—

(1) by striking "bank holding company" each place such term appears and inserting "financial services holding company"; and

(2) in subsection (b)(1), by striking "failure of a bank" and inserting "failure of an insured depository institution".

SEC. 408. APPLICATION OF THE LIMITATIONS ON TYING ARRANGEMENTS AND INSIDER LENDING TO FINANCIAL SERVICES HOLDING COMPANIES.

(a) DEFINITIONS.—Section 106(a) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1971) is amended by striking "bank holding company" and inserting "financial services holding company".

(b) CERTAIN TYING ARRANGEMENTS PROHIBITED.—Section 106(b) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(b)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

"(2)(A) Except as provided in subparagraph (B), a financial services holding company and any subsidiary (other than a bank) of such holding company shall not, in any manner, extend credit, lease, or sell property of any kind, furnish any service, or fix or vary the consideration for any such credit, service, product, or other activity, on the condition that or subject to the requirement that the customer obtain credit, property, or service from an affiliated bank.

"(B) A financial services holding company and any subsidiary (other than a bank) of such holding company may vary the consideration—

"(i) for any extension of credit, lease or sale of property of any kind, or the furnishing of any service on the condition that or subject to the requirement that the customer obtain some credit, property, or service from an affiliated bank if the products or services offered to and obtained by the customer are also separately available to such customer on substantially the same terms, including interest rate, collateral, and cost, as those prevailing at the time for comparable transactions that are not subject to such conditions or requirements; or

"(ii) for any loan, discount, deposit, or trust service on the condition that or subject to the requirement that the customer obtain a loan, discount, deposit or trust service from an affiliated bank if such products or services described in this subparagraph are also separately available to such customer.

"(C) The Board may prescribe such regulations to carry out the purposes of this paragraph which may include such restrictions or limitations with respect to subparagraph (B) as the Board determines to be appropriate in the public interest.".

(c) INSIDER LOANS.—Subparagraphs (C) and (D) of section 22(h)(6) of the Federal Reserve Act (12 U.S.C. 375b(6)) are amended by striking "bank holding company" each place such term appears and inserting "financial services holding company".

SEC. 409. PROVISIONS EXEMPTING FINANCIAL SERVICES HOLDING COMPANIES FROM THE SAVINGS AND LOAN HOLDING COMPANY ACT.

Section 10(a) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)) is amended—

(1) in paragraph (1), by striking subparagraph (D) and inserting the following new subparagraph:

"(D) SAVINGS AND LOAN HOLDING COMPANY DEFINED.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'savings and loan holding company' means any company which directly or indirectly controls a savings association or controls any other company which is a savings and loan holding company.

"(ii) CERTAIN COMPANIES EXCLUDED.—The term 'savings and loan holding company' does not include—

"(I) any company which is a financial services holding company which is registered under and subject to the Bank Holding Company Act of 1956, other than a company described in section 4(f) of such Act; or

"(II) any subsidiary of any company described in subclause (I)."; and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) EXEMPTION FOR FINANCIAL SERVICES HOLDING COMPANIES.—This section shall not apply to—

"(A) any company that is a financial services holding company which is registered under and subject to the provisions of the Bank Holding Company Act of 1956, other than any company described in section 4(f) of such Act; or

"(B) any subsidiary of any company described in subparagraph (A) which is not a savings association.".

SEC. 410. CEASE AND DESIST AUTHORITY.

Section 8(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(3)) is amended by striking "bank holding company" each place such term appears and inserting "financial services holding company.".

SEC. 411. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle shall take effect on January 1, 1993.

(b) CERTAIN AMENDMENTS EFFECTIVE IMMEDIATELY.—The amendments made by sections 408 and 409 shall take effect on the date of enactment of this Act.

CHAPTER 2—DEPOSITORY INSTITUTION CONVERSIONS

SEC. 421. FAILING THRIFT CONVERSIONS TO SAIF-INSURED NATIONAL BANK.

Section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a) is amended by adding at the end the following new subsection:

"(s) TREATMENT OF SAIF-INSURED NATIONAL BANKS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a national bank that is a Savings Association Insurance Fund member (including any savings association applying for conversion to a national bank charter) upon application shall be deemed to be a savings association for the purpose of this section if the Director determines that—

"(A) the national bank resulted (or will result) from the conversion of a savings association which, at the time the control of such association was acquired—

"(i) was in danger of default (as defined in section 3(x)(2) of the Federal Deposit Insurance Act); or

"(ii) was under the control of a conservator or receiver appointed for such savings association; or

"(B) the national bank has acquired more than an insignificant portion of the assets of a savings association described in clauses (i) or (ii) of subparagraph (A),

and after the conversion or acquisition the bank is a level 1 or level 2 depository institution (as defined in section 38 of the Federal Deposit Insurance Act).

"(2) RULE OF CONSTRUCTION.—No provision of this section shall be construed as affecting—

"(A) the power of any national bank described in paragraph (1) to engage in any activity in the same manner and to the same extent as any national bank which is not subject to this section; or

"(B) the authority of any national bank described in paragraph (1) to be an affiliate of any company of which a savings association may be an affiliate under this section.".

SEC. 422. QTL-QUALIFIED NATIONAL BANKS RESULTING FROM CONVERSION OF SAVINGS ASSOCIATIONS.

Section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a) is amended by inserting after subsection (s) (as added by section 421 of this subtitle) the following new subsection:

"(t) TREATMENT OF QTL-QUALIFIED NATIONAL BANKS RESULTING FROM SAVINGS ASSOCIATIONS.—Notwithstanding any other provision of law, any national bank which—

"(1) meets the requirements for a qualified thrift lender under subsection (m);

"(2) resulted from the conversion of a savings association subsidiary of a savings and loan holding company; and

"(3) is a level 1 or level 2 depository institution,

shall be deemed to be a savings association for purposes of this section.".

SEC. 423. MERGERS AND ACQUISITIONS OF INSURED DEPOSITORY INSTITUTIONS DURING CONVERSION MORATORIUM.

(a) IN GENERAL.—Section 5(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(3)) is amended to read as follows:

"(3) OPTIONAL CONVERSIONS SUBJECT TO SPECIAL RULES ON DEPOSIT INSURANCE PAYMENTS.—

"(A) CONVERSIONS ALLOWED.—

"(i) IN GENERAL.—Notwithstanding paragraph (2)(A) and subject to the requirements of this paragraph, any insured depository institution may participate in a transaction described in clause (ii), (iii), or (iv) of paragraph (2)(B) with the prior written approval of the responsible agency under section 18(c)(2).

"(ii) HOLDING COMPANY SUBSIDIARIES.—If, in connection with any transaction referred to in clause (i), the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company, the prior written approval of the Board shall be required for such transaction in addition to the approval of any agency referred to clause (i).

"(B) ASSESSMENTS ON DEPOSITS ATTRIBUTABLE TO FORMER DEPOSITORY INSTITUTION.—

"(i) ASSESSMENTS BY SAIF.—In the case of any acquiring, assuming, or resulting depository institution which is a Bank Insurance Fund member, that portion of the average assessment base of such member for any semiannual period which is equal to the adjusted attributable deposit amount (determined under subparagraph (C) with respect to the transaction) shall—

"(I) be subject to assessment at the assessment rate applicable under section 7 for Savings Association Insurance Fund members;

"(II) not be taken into account for purposes of any assessment under section 7 for Bank Insurance Fund members; and

"(III) be treated as deposits which are insured by the Savings Association Insurance Fund.

"(ii) ASSESSMENTS BY BIF.—In the case of any acquiring, assuming, or resulting depository institution which is a Savings Association Insurance Fund member, that portion of the average assessment base of such member for any semiannual period which is equal to the adjusted attributable deposit amount (determined under subparagraph (C) with respect to the transaction) shall—

"(I) be subject to assessment at the assessment rate applicable under section 7 for Bank Insurance Fund members;

"(II) not be taken into account for purposes of any assessment under section 7 for Savings Association Insurance Fund members; and

"(III) be treated as deposits which are insured by the Bank Insurance Fund.

"(C) DETERMINATION OF ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT.—The adjusted attributable deposit amount which shall be taken into account for purposes of determining the amount of the assessment under subparagraph (B) for any semiannual period by any acquiring, assuming, or resulting depository institution in connection with a transaction under subparagraph (A) is the amount which is equal to the sum of—

"(i) the amount of any deposits acquired by the institution in connection with the transaction (as determined at the time of such transaction);

"(ii) the total of the amounts determined under clause (iii) for semiannual periods preceding the semiannual period for which the determination is being made under this subparagraph; and

"(iii) the amount by which the sum of the amounts described in clauses (i) and (ii) would have increased during the preceding semiannual period (other than any semiannual period beginning before the date of such transaction) if such increase occurred at a rate equal to the annual rate of growth of deposits of the acquiring, assuming, or resulting depository institution minus the amount of any deposits acquired through the acquisition, in whole or in part, of another insured depository institution.

"(D) DEPOSIT OF ASSESSMENT.—That portion of any assessment under section 7 which—

"(i) is determined in accordance with subparagraph (B)(i) shall be deposited in the Savings Association Insurance Fund; and

"(ii) is determined in accordance with subparagraph (B)(ii) shall be deposited in the Bank Insurance Fund.

"(E) CONDITIONS FOR APPROVAL, GENERALLY.—

"(i) FACTORS TO BE CONSIDERED; APPROVAL PROCESS.—In reviewing any application for a proposed transaction under subparagraph (A), the responsible agency (and, in the event the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company, the Board) shall follow the procedures and consider the factors set forth in section 18(c).

"(ii) INFORMATION REQUIRED.—An application to engage in any transaction under this paragraph shall contain such information relating to the factors to be considered for approval as the responsible agency or Board may require, by regulation or by specific request, in connection with any particular application.

"(iii) NO TRANSFER OF DEPOSIT INSURANCE PERMITTED.—This paragraph shall not be construed as authorizing transactions which result in the transfer of any insured depository institution's Federal deposit insurance from 1 Federal deposit insurance fund to the other Federal deposit insurance fund.

"(iv) MINIMUM CAPITAL.—The responsible agency, and the appropriate Federal banking agency for any depository institution holding company, shall disapprove any application for any transaction under this paragraph unless each such agency determines that the acquiring, assuming, or resulting depository institution, and any depository institution holding company which controls such institution, will meet all applicable capital requirements upon consummation of the transaction.

"(F) CERTAIN INTERSTATE TRANSACTIONS.—The Board may not approve any transaction under subparagraph (A) in which the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company unless the Board determines that the transaction would comply with the requirements of section 3(d) of the Bank Holding Company Act of 1956 if, at the time of such transaction, the Savings Association Insurance Fund member involved in such transaction were a State bank which the bank holding company was applying to acquire.

"(G) EXPEDITED APPROVAL OF ACQUISITIONS.—

"(i) IN GENERAL.—Any application by a State nonmember insured bank to acquire another insured depository institution which is required to be filed with the Corporation by subparagraph (A) or any other applicable law or regulation shall be approved or disapproved in writing by the Corporation before the end of the 60-day period beginning on the date such application is filed with the Corporation.

"(ii) EXTENSIONS OF PERIOD.—The period for approval or disapproval referred to in clause (i) may be extended for an additional 30-day period if the Corporation determines that—

"(I) an applicant has not furnished all of the information required to be submitted; or

"(II) in the Corporation's judgment, any material information submitted is substantially inaccurate or incomplete.

"(H) ALLOCATION OF COSTS IN EVENT OF DEFAULT.—If any acquiring, assuming, or resulting depository institution is in default or danger of default at any time before this paragraph ceases to apply, any loss incurred by the Corporation shall be allocated between the Bank Insurance Fund and the Savings Association Insurance Fund, in amounts reflecting the amount of insured deposits of such acquiring, assuming, or resulting depository institution assessed by the Bank Insurance Fund and the Savings Association Insurance Fund, respectively, under subparagraph (B).

"(I) SUBSEQUENT APPROVAL OF CONVERSION TRANSACTION.—This paragraph shall cease to apply if—

"(i) after the end of the 5-year period referred to in paragraph (2)(A), the Corporation approves an application by any acquiring, assuming, or resulting depository institution to treat the transaction described in subparagraph (A) as a conversion transaction; and

"(ii) the acquiring, assuming, or resulting depository institution pays the amount of any exit and entrance fee assessed by the Corporation under subparagraph (E) of paragraph (2) with respect to such transaction.

"(J) ACQUIRING, ASSUMING, OR RESULTING DEPOSITORY INSTITUTION DEFINED.—For purposes of this paragraph, the term 'acquiring, assuming, or resulting depository institution' means any insured depository institution which—

"(i) results from any transaction described in paragraph (2)(B)(ii) and approved under this paragraph;

"(ii) in connection with a transaction described in paragraph (2)(B)(iii) and approved under this paragraph, assumes any liability to pay deposits of another insured depository institution; or

"(iii) in connection with a transaction described in paragraph (2)(B)(iv) and approved under this paragraph, acquires assets from any insured depository institution in consideration of the assumption of liability for any deposits of such institution.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) to section 5(d)(3)(C) of the Federal Deposit Insurance Act shall apply with respect to semiannual periods beginning after the date of the enactment of this Act.

SEC. 424. MERGERS, CONSOLIDATIONS, AND OTHER ACQUISITIONS AUTHORIZED.

(a) FEDERAL SAVINGS ASSOCIATIONS.—Section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a) is amended by inserting after subsection (t) (as added by section 422 of this title) the following new subsection:

"(u) MERGERS, CONSOLIDATIONS, AND OTHER ACQUISITIONS AUTHORIZED.—

"(1) IN GENERAL.—Subject to sections 5(d)(3) and 18(c) of the Federal Deposit Insurance Act, any Federal savings association may acquire or be acquired by any insured depository institution.

"(2) EXPEDITED APPROVAL OF ACQUISITIONS.—

"(A) IN GENERAL.—Any application by a savings association to acquire or be acquired by another insured depository institution which is required to be filed with the Director under section 5(d)(3) of the Federal Deposit Insurance Act or any other applicable law or regulation shall be approved or disapproved in writing by the Director before the end of the 60-day period beginning on the date such application is filed with the agency.

"(B) EXTENSION OF PERIOD.—The period for approval or disapproval referred to in subparagraph (A) may be extended for an additional 30-day period if the Director determines that—

"(i) an applicant has not furnished all of the information required to be submitted; or

"(ii) in the Director's judgment, any material information submitted is substantially inaccurate or incomplete.

"(3) ACQUIRE DEFINED.—For purposes of this subsection, the term 'acquire' has the meaning given to such term in section 13(f)(8)(B) of the Federal Deposit Insurance Act.

"(4) REGULATIONS.—

"(A) REQUIRED.—The Director shall prescribe such regulations as may be necessary to carry out paragraph (1).

"(B) EFFECTIVE DATE.—The regulations required under subparagraph (A) shall—

"(i) be prescribed in final form before the end of the 90-day period beginning on the date of the enactment of this subsection; and

"(ii) take effect before the end of the 120-day period beginning on such date.".

(b) NATIONAL BANKS.—Chapter 1 of title LXII of the Revised Statutes of the United

States (12 U.S.C. 5133 et seq.) is amended by adding at the end the following new section:

"SEC. 5156A. MERGERS, CONSOLIDATIONS, AND OTHER ACQUISITIONS AUTHORIZED.

"(a) IN GENERAL.—Subject to sections 5(d)(3) and 18(c) of the Federal Deposit Insurance Act, any national bank may acquire or be acquired by any insured depository institution.

"(b) EXPEDITED APPROVAL OF ACQUISITIONS.—

"(1) IN GENERAL.—Any application by a national bank to acquire or be acquired by another insured depository institution which is required to be filed with the Comptroller of the Currency by section 5(d)(3) of the Federal Deposit Insurance Act or any other applicable law or regulation shall be approved or disapproved in writing by the agency before the end of the 60-day period beginning on the date such application is filed with the agency.

"(2) EXTENSIONS OF PERIOD.—The period for approval or disapproval referred to in paragraph (1) may be extended for an additional 30-day period if the Comptroller of the Currency determines that—

"(A) an applicant has not furnished all of the information required to be submitted; or

"(B) in the Comptroller's judgment, any material information submitted is substantially inaccurate or incomplete.

"(c) ACQUIRE DEFINED.—For purposes of this section, the term 'acquire' has the meaning given to such term in section 13(f)(8)(B) of the Federal Deposit Insurance Act.".

SEC. 425. ACQUISITION OF THRIFT INSTITUTIONS BY CERTAIN COMPANIES WHICH CONTROL BANKS AND ARE NOT TREATED AS HOLDING COMPANIES.

(a) IN GENERAL.—Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended by adding at the end the following new paragraph:

"(14) SAVINGS ASSOCIATION ACQUISITIONS.—For purposes of paragraph (2)(A), an insured institution is described in this paragraph if control of the insured institution, or more than 5 percent of the shares of the insured institution, is acquired by a company described in paragraph (1) of this subsection in connection with a transaction—

"(A) which involves the insured institution and a bank controlled by the company;

"(B) which is approved under section 5(d)(3) of the Federal Deposit Insurance Act by the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act); and

"(C) in which a bank controlled by such company is the acquiring, assuming, or resulting depository institution (as defined in section 5(d)(3)(I) of the Federal Deposit Insurance Act).".

(b) EXCEPTIONS TO CERTAIN LIMITATIONS ON BANK ACTIVITIES TO FACILITATE ACQUISITIONS.—Section 4(f)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(3)) is amended by adding at the end the following new subparagraph:

"(D) EXCEPTIONS FOR PARAGRAPH (14) MERGERS.—If any company described in paragraph (1) acquires control of any insured institution, or more than 5 percent of the shares of any insured institution, pursuant to a transaction described in paragraph (14)—

"(i) subparagraph (B)(i) shall not apply so as to prohibit the bank which is the acquiring, assuming, or resulting depository institution (as defined in section 5(d)(3)(I) of the Federal Deposit Insurance Act) in connection with such transaction from engaging in any activity in which the insured institution was engaged before the date of such transaction to the extent that—

"(I) the activity is permissible for bank holding companies under subsection (c)(8); and

"(II) the bank is not both accepting demand deposits that the depositor may withdraw by check or similar means for payment to third parties or others and engaging in the business of making commercial loans as a result of engaging in such activity; and

"(ii) subparagraph (B)(iv) shall not apply to an increase in the assets of the bank controlled by such company as a result of the transaction referred to in paragraph (14) during the 1-year period beginning on the date of such transaction.".

(c) TECHNICAL AMENDMENTS.—Clauses (i) and (ii)(VIII) of section 4(f)(2)(A) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(2)(A)) are amended by striking "(10) or (12)" and inserting "(10), (12), or (14)".

CHAPTER 3—FINANCIAL ACTIVITIES OF NATIONAL BANKS

SEC. 431. SECURITIES ACTIVITIES OF NATIONAL BANKS.

(a) IN GENERAL.—The paragraph designated the "Seventh" of section 5136 of the Revised Statutes (12 U.S.C. 24 (Seventh)) is amended by adding at the end the following: "Notwithstanding any other provision of law (including this section), a national bank shall not, in the United States and pursuant to any express or incidental power, underwrite, distribute, or sell securities backed by, or representing interests in, a pool of assets originated or purchased by the bank or any affiliate of the bank, and the bank shall not continue to engage in such activity pursuant to any order issued by the Comptroller of the Currency. A national bank shall not sponsor, organize, promote, or control an investment company registered under the Investment Company Act of 1940. A national bank shall not engage in the United States in any securities activity except to the extent that such activity is specifically authorized by statute, or authorized by a regulation prescribed by, or an order, interpretation, or approval issued by, the Comptroller of the Currency pursuant to such statute, on the date of the enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, and does not involve the underwriting or distributing by any national bank of securities backed by or representing an interest in mortgages or other assets originated or purchased by the national bank or any affiliate of the bank. No subsidiary of a national bank may engage in any activity in which a national bank may not engage.".

(b) REPEAL OF PROVISIONS OF THE BANKING ACT OF 1933.—Effective January 1, 1993, sections 20 and 32 of the Banking Act of 1933 (12 U.S.C. 377 and 78, respectively) are hereby repealed.

(c) CONFORMING AMENDMENTS.—The 20th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 335) is amended by inserting after the word "stock" the following: "and with respect to sponsoring, organizing, promoting, or controlling of an investment company registered under the Investment Company Act of 1940".

SEC. 432. INSURANCE ACTIVITIES OF NATIONAL BANKS.

(a) LIMITED INSURANCE ACTIVITIES FOR NATIONAL BANKS LOCATED IN SMALL TOWNS.—In addition to the powers now vested by law in national banks organized under the laws of the United States, any national bank that is located in a place that has a population not exceeding 5,000 (as shown by the preceding decennial census) may engage in insurance sales and insurance solicitation activities if—

(1) the sales and solicitation activities are confined to that place of 5,000 or less and the adjacent rural unincorporated areas closest to that place; and

(2) the insurance is sold only to—

(A) individuals who are residents of, or are employed in, any place (including any unincorporated rural area) in such State that has a population not exceeding 5,000 (as shown by the preceding decennial census);

(B) persons—

(i) who are engaged in business in any place in such State that has a population not exceeding 5,000 (as shown by the preceding decennial census) and have a principal business office in any such place; or

(ii) whose principal headquarters is located in any such place,

with respect to employees (including owner-employees) who reside in or are principally employed in such place, real property located in such place, personal property which is principally used in such place, or services provided by persons located in such place; and

(C) any other person if the insurance is issued with respect to—

(i) real property located in any place in such State that has a population not exceeding 5,000 (as shown by the preceding decennial census); or

(ii) personal property which is principally used in such place.

(b) CERTAIN ACTIVITIES PROHIBITED IN CONNECTION WITH INSURANCE ACTIVITIES.—No national bank which sells insurance pursuant to subsection (a) may—

(1) assume or guarantee the payment of any premium on any insurance policy issued through the agency of the bank by the insurance company for which the bank is acting as agent; or

(2) guarantee the truth of any statement made by an insurance customer in filing such customer's application for insurance.

(c) LIMITATION ON TITLE INSURANCE ACTIVITIES.—No national bank may engage, directly or through a subsidiary, in any activity involving the underwriting or sale of title insurance other than title insurance agency activities in which such bank was actively and lawfully engaged, directly or through a subsidiary, as of June 1, 1991.

(d) REPEAL.—

(1) IN GENERAL.—To the extent the paragraph described in paragraph (2) is in effect on the day before the date of the enactment of this Act (whether as a paragraph of the Act described in such paragraph or as a provision of any other law), such paragraph shall cease to be effective as of such date of enactment.

(2) PARAGRAPH DESCRIBED.—The paragraph described in this paragraph is the paragraph contained in the Act entitled "An Act to amend certain sections of the Act entitled 'Federal reserve Act' approved December twenty-third, nineteen hundred and thirteen' and approved September 7, 1916 (39 Stat. 753; omitted from the United States Code) which—

(A) relates to the authority of national banks in small communities to act as insurance agents and real estate brokers; and

(B) begins "That in addition to the powers now vested by law in national banking associations".

SEC. 433. AMENDMENTS TO SECTIONS 23A AND 23B OF THE FEDERAL RESERVE ACT.

(a) SECTION 23A.—Section 23A of the Federal Reserve Act (12 U.S.C. 371c) is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

"(5) NOTICE REQUIRED FOR CERTAIN TRANSACTIONS.—No financial services holding company may permit any insured depository institution subsidiary to engage in any covered transaction if the amount of the covered transaction is equal to or greater than the amount which is equal to 5 percent of the capital stock and surplus of the institution unless notice is provided not less than 5 days before such transaction is engaged in to the Board and the appropriate Federal banking agency for the insured depository institution.";

(2) in subsection (b)(1)(D), by striking clause (ii) and inserting the following new clause:

"(ii) any investment company, commodity pool, or other company engaged in substantially the same activities as an investment company or commodity pool with respect to which a member bank or any affiliate of the member bank is an investment adviser (as defined in section 2(a)(20) of the Investment Company Act of 1940) or a commodity trading advisor (as defined in section 2(a)(1)(A) of the Commodity Exchange Act) or for which such bank or affiliate performs activities which are substantially equivalent to those provided by an investment adviser or commodity trading advisor; and";

(3) in subsection (b)(2)(A), by inserting "and of which the member bank owns at least 80 percent of the voting stock" after "member bank";

(4) in subsection (b)(5), by inserting "principally engaged in deposit taking or lending activities" after "trust company";

(5) by striking "or" at the end of subsection (b)(7)(D);

(6) in subsection (b)(7)(E) by inserting "to, or" after "standby letter of credit,";

(7) in subsection (b)(7), by inserting after subparagraph (E) the following new subparagraphs:

"(F) the assumption by a member bank of a liability of any affiliate whether directly or through the transfer of such liability, or the shares of such affiliate, to the member bank affiliate;

"(G) a loan or extension of credit to any company, or the issuance of or participation in a standby letter of credit, asset purchase agreement, indemnification, guarantee, insurance or other facility with any company, the purpose of which is to enhance the marketability of securities or other obligations or assets (other than securities that a member bank may underwrite pursuant to section 5136 of the Revised Statutes) that are underwritten or distributed by the affiliate, unless there is substantial participation by other lenders in such loan, extension of credit, letter of credit, agreement, indemnification, guarantee, insurance or other facility; or

"(H) any other financial arrangement that is determined by the Board by regulation to be substantially equivalent to a transaction described in this paragraph;";

(8) in subsection (c)(1)—

(A) by inserting "to, or" after "letter of credit issued"; and

(B) by striking "at the time of the transaction";

(9) in subsection (c)(4)—

(A) by inserting "the member bank or" after "issued by"; and

(B) by inserting "to, or" after "letter of credit"; and

(10) in subsection (d)(5), by inserting "to the extent that the company provides services solely to affiliated member banks" before the semicolon;

(b) SECTION 23B.—

(1) Section 23B(a)(2)(E) of the Federal Reserve Act (12 U.S.C. 371c-1(a)(2)(E)) is amended—

(A) in clause (i), by striking ", or" and inserting instead a semicolon;

(B) in clause (ii), by striking the period and inserting instead "; or"; and

(C) by inserting at the end thereof the following new clause:

"(iii) if the third party is a customer of an affiliate (as defined in section 2 of the Bank Holding Company Act of 1956).".

(2) Section 23B(b)(2) of the Federal Reserve Act (12 U.S.C. 371c-1(b)(2)) is amended by inserting "officers, directors, or employees of" after "of the bank or".

SEC. 434. CUSTOMER DISCLOSURE.

Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(o) CUSTOMER DISCLOSURE REGARDING SECURITIES, INSURANCE, AND OTHER NONBANKING PRODUCTS.—

"(1) PRODUCTS OFFERED, RECOMMENDED OR SOLD BY DEPOSITORY INSTITUTIONS.—An insured depository institution shall prominently disclose in writing to the institution's customers pursuant to regulations prescribed by the appropriate Federal banking agency, that securities or insurance products offered, recommended, or sold by the insured depository institution are not deposits, are not insured by the Federal Deposit Insurance Corporation, are not guaranteed by the insured depository institution or an affiliated insured depository institution, and are not otherwise an obligation of an insured depository institution, unless such is the case.

"(2) PRODUCTS OFFERED, RECOMMENDED, OR SOLD ON BANK PREMISES OR THROUGH JOINT MARKETING ACTIVITIES.—An insured depository institution shall not permit securities or insurance products to be offered, recommended, or sold on the premises of the institution or to customers of the institution as part of joint marketing activities with any other person, unless that person prominently discloses in writing, in addition to the disclosures required in paragraph (1), that such person is not an insured depository institution and is separate from the insured depository institution.

"(3) CUSTOMER'S SIGNED STATEMENT RELATING TO UNINSURED DEPOSITS.—

"(A) REQUIREMENTS.—In connection with—

"(i) any sale of any instrument or financial product by any insured depository institution, or any affiliate of such institution, which does not constitute an insured deposit;

"(ii) any acceptance of a deposit by such institution or affiliate which is not an insured deposit; or

"(iii) any other transaction which results in the acquisition of any such obligation, instrument, or product from the institution or affiliate,

the institution or affiliate shall obtain from the purchaser, depositor, or acquirer, before the completion of the sale, deposit, or transaction, a separate statement, signed and dated by such person, which contains the following declaration in not less than 18-point boldface type: 'I understand that this is not an insured deposit. The United States Government does not guarantee it. If [name of institution or affiliate] fails, I know that I may lose some or all of my money.'.

"(B) EXCEPTION.—The provisions of this paragraph shall not apply with respect to any transaction—

"(i) effected by a broker or dealer registered under the Securities Exchange Act of 1934;

"(ii) involving an insurance activity of any affiliate of an insured depository institution which is not itself an insured depository institution or a subsidiary of such institution if the transaction—

"(I) is not engaged in on the premises of any insured depository institution (including any branch) or any subsidiary of such institution;

"(II) is not engaged in by the affiliate in connection with any joint marketing activities between the affiliate and any such institution or subsidiary; and

"(III) does not otherwise involve any such insured depository institution or subsidiary; or

"(iii) consisting of any loan or other extension of credit by the insured depository institution or affiliate.

"(4) REGULATIONS.—The appropriate Federal banking agencies, with respect to insured depository institutions and financial services holding companies, and the Securities and Exchange Commission, with respect to persons registered with such Commission, may adopt regulations implementing this subsection.".

SEC. 435. BANKERS' BANKS.

(a) ACQUISITION OF INTERESTS.—The paragraph designated the "Seventh." of section 5136 of the Revised Statutes (12 U.S.C. 24 Seventh.) (as amended by section 431 of this Act) is amended by inserting "or depository institution holding companies" after "providing services for other depository institutions".

(b) ISSUANCE OF CERTIFICATE.—Section 5169(b)(1) of the Revised Statutes (12 U.S.C. 27(b)(1)) is amended by inserting "or depository institution holding companies" after "other depository institutions" the 2d place such term appears.

CHAPTER 4—NONBANKING ACTIVITIES OF FOREIGN BANKS IN THE UNITED STATES

SEC. 441. AMENDMENTS TO THE INTERNATIONAL BANKING ACT OF 1978.

(a) TREATMENT OF FOREIGN BANKS.—Section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a)) (as amended by section 207) is amended to read as follows:

"(a) TREATMENT OF FOREIGN BANKS AS HOLDING COMPANIES.—

"(1) IN GENERAL.—Except as otherwise provided in this section, any foreign bank which—

"(A) maintains a branch or agency in the United States; or

"(B) directly or indirectly owns or controls a commercial lending company organized under State law,

shall be subject to the Bank Holding Company Act of 1956 and sections 105 and 106 of the Bank Holding Company Act Amendments of 1970 in the same manner and to the same extent as a financial services holding company.

"(2) TREATMENT OF FOREIGN BANK HOLDING COMPANIES.—Any company that directly or indirectly owns or controls a foreign bank described in paragraph (1) shall be subject to the Bank Holding Company Act of 1956 in the same manner and to the same extent as a company that owns or controls a financial services holding company.

"(3) COMPARABLE CAPITAL AND OTHER FINANCIAL REQUIREMENTS.—

"(A) DETERMINATION REQUIRED.—In reviewing any notice under section 4 of the Bank Holding Company Act of 1956 by any foreign bank or company controlling a foreign bank to which this section applies, the Board shall disapprove the notice unless the Board determines that the financial resources of such bank or company, including the capital level under section 38 of the Federal Deposit Insurance Act, are comparable to those of a domestic financial services holding company that would be permitted to engage in such activities.

"(B) CRITERIA FOR DETERMINATION.—In making the determination in subparagraph (A), the Board shall—

"(i) take into account differences in domestic and foreign accounting standards; and

"(ii) assure that competitive comparability between domestic and foreign banks is maintained.".

(b) AUTHORITY TO TERMINATE GRANDFATHERED STATUS OF ACTIVITIES NOW PERMISSIBLE UNDER THE BANK HOLDING COMPANY ACT OF 1956.—Section 8(c)(1) of the International Banking Act of 1978 (12 U.S.C. 3106(c)(1)) is amended by adding at the end the following new sentence: "Notwithstanding any other provision of this paragraph or any other provision of law, the Board shall terminate any authority conferred under this subsection on any foreign bank or company with respect to an affiliate engaged in the business of underwriting, distributing, or otherwise buying or selling stocks, bonds, and other securities in the United States upon a finding by the Board that such business has been authorized by statute as a permissible activity for financial services holding companies in the United States.".

Subtitle B—Amendments to Federal Securities Laws

CHAPTER 1—REGULATION OF SECURITIES ACTIVITIES OF DEPOSITORY INSTITUTIONS

PART I—BROKER-DEALER PROVISIONS

SEC. 451. DEFINITION OF BROKER.

Section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)) is amended to read as follows:

"(4)(A) The term 'broker' means any person engaged in the business of effecting transactions in securities for the account of others.

"(B) A bank shall not be deemed to be a 'broker' because it engages in one or more of the following activities:

"(i) fiduciary activities (including effecting transactions in the course of such fiduciary activities) permissible for national banks under the first section of the Act of September 28, 1962 (12 U.S.C. 92a), or for State banks under relevant State trust law, except that a bank shall be deemed a broker if, in the conduct of such fiduciary activities, it—

"(I) publicly solicits brokerage business; or

"(II) is compensated for such business by the payment of commissions or similar remuneration based on effecting transactions in securities (excluding fees calculated as percentage of assets under management); or

"(ii) effects transactions in exempted securities, commercial paper, bankers' acceptances, or commercial bills.".

SEC. 452. DEFINITION OF DEALER.

Section 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5)) is amended to read as follows:

"(5)(A) The term 'dealer' means any person engaged in the business of buying and selling securities for his own account through a broker or otherwise.

"(B) Such term does not include—

"(i) any person insofar as he buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as part of a regular business; or

"(ii) any bank insofar as the bank (I) buys and sells commercial paper, bankers' acceptances, or commercial bills, or exempted securities; or (II) buys and sells securities for investment purposes for the bank or for accounts in which the bank, acting as trustee, is authorized to determine the securities to be purchased or sold.".

SEC. 453. POWER TO EXEMPT FROM THE DEFINITIONS OF BROKER AND DEALER.

Section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c) is amended by adding at the end the following:

"(e) The Commission, by rule, regulation, or order, upon its own motion or upon application, may conditionally or unconditionally exempt any person or class of persons from the definitions of 'broker' or 'dealer,' if the Commission finds that such exemption is consistent with the public interest, the protection of investors, and the purposes of this title.".

SEC. 454. REQUIREMENT THAT BANKS FALLING WITHIN THE DEFINITIONS OF BROKER OR DEALER PLACE THEIR SECURITIES ACTIVITIES IN A SEPARATE CORPORATE ENTITY.

Section 15(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(a)) is amended to read as follows:

"SEC. 15. (a)(1) It shall be unlawful for any broker or dealer that is either a person other than a natural person or a natural person not associated with a broker or dealer that is a person other than a natural person (other than such a broker or dealer whose business is exclusively intrastate and who does not make use of any facility of a national securities exchange) to make use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills) unless such broker or dealer is registered in accordance with subsection (b) of this section.

"(2) It shall be unlawful for any bank to act as a broker or dealer, except in the course of an exclusively intrastate business. This subsection shall not preclude a subsidiary of a bank that is registered in accordance with subsection (b) from acting as a broker or dealer to any extent otherwise permissible by Federal banking law.

"(3) The Commission, by rule or order, as it deems consistent with the public interest and the protection of investors, may conditionally or unconditionally exempt from paragraphs (1) and (2) of this subsection any broker or dealer or class of brokers or dealers specified in such rule or order.".

SEC. 455. PROVISIONS RELATING TO BROKER-DEALERS AFFILIATED WITH DEPOSITORY INSTITUTIONS.

The Securities Exchange Act of 1934 is amended by inserting after section 15C (15 U.S.C. 78o-5) the following new section:

"PROVISIONS RELATING TO CERTAIN BROKER-DEALERS AFFILIATED WITH FINANCIAL SERVICES HOLDING COMPANIES

"Sec. 15D. (a) DEFINITIONS.—As used in this section—

"(1) the terms 'financial services holding company', 'insured depository institution', 'Board', 'control', 'subsidiary', and 'securities affiliate', have the meanings provided by section 2 of the Bank Holding Company Act of 1956; and

"(2) the term 'affiliated insured depository institution or subsidiary thereof' means, with respect to any securities affiliate that is controlled by a financial services holding company, an insured depository institution that is controlled by such financial services holding company, or a subsidiary of such insured depository institution.

"(b) CONSUMER PROTECTION PROVISIONS.—

"(1) DISCLOSURES BY BANK-AFFILIATED BROKER-DEALERS REGARDING FEDERAL DEPOSIT INSURANCE.—

"(A) GENERAL REQUIREMENT.—Each registered broker or dealer that is an affiliate of an insured depository institution shall provide notice to its customers of the inapplicability of Federal deposit insurance with respect to securities or other financial products recommended, offered, or sold by such broker or dealer to such customers in accordance with regulations which the Commission, in consultation with the Board of Governors of the Federal Reserve System, shall prescribe in accordance with this subsection and consistent with the public interest and the protection of investors.

"(B) CONTENTS OF DISCLOSURES.—The notice required under subparagraph (A) shall be designed to inform customers of a broker or dealer—

"(i) that the registered broker or dealer—

"(I) is not an insured depository institution; and

"(II) is a separate corporate entity with respect to any insured depository institution affiliate of such broker or dealer;

"(ii) whether the securities or other financial products underwritten, sold, offered, or recommended by the registered broker or dealer—

"(I) are deposits which are insured by the Federal Deposit Insurance Corporation;

"(II) are instruments which are guaranteed either as to principal or interest by any insured depository institution affiliate of such broker or dealer;

"(III) are otherwise obligations of any insured depository institution; and

"(iii) whether or not any insured depository institution that is an affiliate of such broker or dealer is permitted under applicable law to extend credit, arrange for the extension of credit, or issue a guaranty, acceptance, letter of credit, endorsement, asset purchase agreement, indemnity, insurance, or other credit instrument or facility, including a standby letter of credit, to or for the benefit of an issuer of any security that the broker or dealer sells or offers for sale; and

"(iv) such additional information as the Commission deems to be necessary to carry out the purposes of this subsection.

"(C) TIME AND MANNER OF DISCLOSURE.—The regulations prescribed by the Commission under this subsection shall specify a time and manner by which the notice required by this subsection shall be provided to customers that the Commission determines will effectively inform customers concerning the inapplicability of Federal deposit insurance.

"(D) USE OF ADDITIONAL LANGUAGES.—The regulations prescribed by the Commission under this paragraph shall specify when, under which circumstances, and by what means and procedures the notice required under this paragraph shall be made available in languages other than English.

"(2) DISCLOSURES OF CONFIDENTIAL CUSTOMER INFORMATION PROHIBITED.—

"(A) IN GENERAL.—No securities affiliate may disclose, directly or indirectly, any confidential customer information to any person (as defined in section 1 of title 1, United States Code), without the prior written consent of the customer.

"(B) RECORDS OF CUSTOMER CONSENT.—Whenever any securities affiliate obtains the prior written consent of a customer for purposes of subparagraph (A), such affiliate shall—

"(i) obtain an acknowledgment of such consent by the customer, including the date the consent was acknowledged and the customer's name, address, and any applicable account number;

"(ii) obtain such consent separately from any other authorization or consent of the customer;

"(iii) inform the customer that the consent is not required as a condition for the performance of services for the customer; and

"(iv) maintain records of compliance with clauses (i), (ii), and (iii).

"(C) CUSTOMER DEFINED.—For purposes of this paragraph, the term 'customer' means any person who, after the date of enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, establishes a securities account, investment advisory relationship, or other relationship in connection with securities transactions with, or purchases any service or financial product from, such securities affiliate.

"(D) CONFIDENTIAL CUSTOMER INFORMATION DEFINED.—For purposes of subparagraph (C), the term 'confidential customer information' means financial information regarding any specific individual which has been derived from any record of any securities affiliate and pertains to the individual's relationship with the securities affiliate.

"(E) CERTAIN INFORMATION NOT INCLUDED IN DEFINITION.—Notwithstanding subparagraphs (C) and (D), the term 'confidential customer information' shall not include—

"(i) any information obtainable from an unaffiliated credit bureau or similar entity or information obtainable in the ordinary course of business from any other unaffiliated entity;

"(ii) any information provided to any credit bureau or similar entity in the ordinary course of business;

"(iii) any information obtainable in connection with insurance—

"(I) which is limited to assuring the repayment of the outstanding balance due on an extension of credit in the event of the death, disability, or involuntary unemployment of the debtor;

"(II) on real or personal property obtained by or on behalf of a securities affiliate in the event a debtor has failed to provide reasonable evidence of required insurance in accordance with an extension of credit; or

"(III) to assure the repayment of outstanding balances due in connection with an extension of credit in the event of the loss or damage to property used as collateral on such extension of credit; and

"(iv) any information provided—

"(I) to the Securities and Exchange Commission, an appropriate regulatory agency, or a self-regulatory organization; or

"(II) in accordance with the Right to Financial Privacy Act of 1978 to any Government authority (as defined in section 1101(3) of such Act).

"(F) DISCLOSURE OF CUSTOMER INFORMATION.—In addition to any requirement or limitation contained in this section, the Commission may prescribe regulations limiting disclosures of nonpublic customer information from any securities affiliate to any affiliate of such securities affiliate, including an evaluation of the creditworthiness of an issuer or other customer of that securities affiliate or any subsidiary or affiliate of such securities affiliate.

"(3) LIMITATIONS ON ADVERTISEMENT.—The Commission shall prescribe regulations to prohibit any securities affiliate from employing any advertisement that would mislead or otherwise cause a reasonable person to believe mistakenly that an affiliated insured depository institution or the Federal Government is responsible for the activities of the securities affiliate, stands behind the affiliate's credit, guarantees any returns on securities sold by the affiliate, or is a source of payment of any obligation of or sold by the affiliate.

"(c) REQUIREMENTS APPLICABLE IN THE CASE OF FINANCIAL SERVICES HOLDING COMPANIES WITH SECURITIES AFFILIATES.—

"(1) CERTAIN FINANCIAL TRANSACTIONS OF INSURED DEPOSITORY INSTITUTIONS PROHIBITED.—Notwithstanding any provision of paragraph (5), a securities affiliate may not directly or indirectly engage in any of the following:

"(A) Except as provided in paragraph (3), knowingly obtain, receive, or enjoy the beneficial use of credit from an affiliated insured depository institution.

"(B) Knowingly obtain, receive, or enjoy the beneficial use of a guaranty, acceptance, or letter of credit, endorsement, asset purchase agreement, indemnity, insurance, or other credit instrument or facility, including a standby letter of credit, from an affiliated insured depository institution.

"(C) Sell to an affiliated insured depository institution, for its own account, or for the account of any subsidiary of the institution, any financial asset of the securities affiliate that is not a security of the United States or any agency of the United States or a security on which the principal and interest are fully guaranteed by the United States or any such agency.

"(D) Sell to an affiliated insured depository institution, for its own account, or for the account of any subsidiary of the institution, any security (other than securities issued by an open-end investment company or a unit investment trust) of which the securities affiliate is an underwriter or a member of the selling group, or which the securities affiliate otherwise places, until—

"(i) in the case of an underwriting, 60 days after the end of the underwriting period; or

"(ii) in the case of a placement, 60 days after completion of the placement.

"(E) Knowingly sell to a customer account for which an affiliated insured depository institution or its subsidiary, acting as fiduciary, is authorized to determine the securities to be purchased or sold, any security (other than securities issued by an open-end investment company or a unit investment trust) of which the securities affiliate is an underwriter or a member of the selling group or which the securities affiliate otherwise places until—

"(i) in the case of an underwriting, 90 days after the end of the underwriting period; or

"(ii) in the case of a placement, 90 days after completion of the placement.

The requirements of this subparagraph (E) apply whether or not such purchase is authorized by any trust agreement or any other instrument authorizing the insured depository institution or subsidiary to act in such capacity, unless such purchase is permitted by State law, is explicitly authorized in the trust agreement or other instrument establishing the fiduciary relationship, and is effectuated by endorsement by the creator of the trust of a separate document that discloses (in accordance with regulations prescribed by the Board) any conflict of interest that an insured depository institution may have in making such purchase. Notwithstanding any provision of Federal or State law, if the creator of any trust agreement or other instrument referred to in the preceding sentence is incapable of providing the authorization or effectuating an endorsement referred to in such sentence every beneficiary of such trust or instrument shall provide such authorization or effectuate such endorsement.

"(F) Arrange for the extension of credit from an affiliated insured depository institution to any investment company which is sponsored, organized, controlled, promoted, or advised by the securities affiliate, except as permitted by regulations prescribed by the Commission pursuant to section 18(f)(3) of the Investment Company Act of 1940.

"(G) Arrange for the extension of credit, or arrange for the issuance or entry into of a guaranty, acceptance, letter of credit, endorsement, asset purchase agreement, indemnity, insurance, or other credit instrument or facility, including a standby letter of credit, from an affiliated insured depository institution to an issuer of securities for which the securities affiliate is underwriting or placing any security for the purpose of paying, in whole or in part, the principal of, or any interest or dividends on, those securities.

"(H) Arrange for the extension of credit to a customer of the securities affiliate for the purpose of repaying, in whole or in part, credit extended to such customer by such securities affiliate.

"(I) Except as permitted under section 4(n)(4)(G) of the Bank Holding Company Act of 1956, arrange for the extension of credit from, or arrange for the issuance or entry into of a guaranty, acceptance, letter of credit, endorsement, asset purchase agreement, indemnity, insurance, or other credit instrument or facility, including a standby letter of credit, from an affiliated insured depository institution to or for the benefit of the issuer of any security of which the securities affiliate is an underwriter or a member of the selling group, or which the securities affiliate otherwise places, until—

"(i) in the case of an underwriting, 90 days after the end of the underwriting period; or

"(ii) in the case of a placement, 90 days after completion of the placement.

"(J) Except as provided in paragraph (5), purchase any financial asset of an affiliated depository institution or a subsidiary thereof that is not a security of the United States or any agency of the United States or a security on which the principal and interest are fully guaranteed by the United States or any such agency.

"(2) CERTAIN FINANCIAL TRANSACTIONS OF HOLDING COMPANIES AND SUBSIDIARIES DURING DISTRIBUTIONS PROHIBITED.—No securities affiliate may, directly or indirectly, arrange for the extension of credit from any affiliated financial services holding company or subsidiary of a financial services holding company to any person, if such credit is secured by, or is used to purchase, any security that is the subject of a distribution or placement in which a securities affiliate of such holding company participates as an underwriter or member of the selling group or which the securities affiliate otherwise places (other than securities issued by an open-end investment company or a unit investment trust or securities of the United States or any agency of the United States or securities on which the principal and interest are fully guaranteed by the United States or any such agency) until 30 days after the end of the period in which such security is the subject of such distribution or placement.

"(3) EXCEPTION FOR INTRADAY EXTENSIONS OF CREDIT IN CONNECTION WITH CLEARING GOVERNMENT SECURITIES.—Paragraph (1)(A) shall not apply with respect to any extension of credit which is made for the purchase or sale of any securities of the United States or any agency of the United States or any securities on which the principal and interest are fully guaranteed by the United States or any such agency, if—

"(A) the extension of credit is to be repaid on the same calendar day;

"(B) the extension of credit is incidental to the clearing of transactions in those securities through such institution or any subsidiary; and

"(C) both the principal of, and the interest on, the extension of credit are fully secured, on a market value basis, by securities of the United States or any agency of the United States or securities on which the principal and interest are fully guaranteed by the United States or any such agency.

"(4) PROHIBITIONS ON DISCRIMINATORY CREDIT TREATMENT.—No securities affiliate knowingly shall obtain or arrange for an extension of credit or services that would violate section 4(n)(4)(D) of the Bank Holding Company Act of 1956.

"(5) ASSET PURCHASES FROM AFFILIATED INSURED INSTITUTION OR SUBSIDIARY THEREOF.—

"(A) IN GENERAL.—A securities affiliate may, notwithstanding paragraph (1)(J) of this paragraph but subject to section 23B of the Federal Reserve Act, purchase any asset of an affiliated insured depository institution for the purpose of including such asset in a pool of assets for the purpose of issuing asset-backed securities if—

"(i) those securities are rated as investment grade by at least 1 unaffiliated, nationally recognized statistical rating organization;

"(ii) those securities are issued or guaranteed by a government sponsored enterprise determined by the Board for purposes of section 4(n)(4)(F)(i)(II) of the Bank Holding Company Act of 1956;

"(iii) those securities represent interests in securities described in clause (ii) of this subparagraph;

"(iv) the price at which an equity security or the yield at which a debt security to be distributed to the public is established at a price no higher, or yield no lower, than that recommended by a qualified independent underwriter which has also participated in the preparation of the registration statement and the prospectus, offering circular, or similar document; or

"(v) those securities would not be the subject of a public offering and would be sold only to accredited investors, as defined in the Securities Act of 1933.

"(B) REGULATIONS.—The Commission, after consultation with the Board of Governors of the Federal Reserve System, shall prescribe such regulations as may be necessary to ensure that transactions described in subparagraph (A) comply with the requirements of this subsection.

"(C) ASSET DEFINED.—For purposes of this paragraph, the term 'asset' means any note, draft, acceptance, loan, lease, receivable, other obligation, or pools of any such obligations.

"(D) QUALIFIED INDEPENDENT UNDERWRITER.—For purposes of this paragraph, the term 'qualified independent underwriter' shall be defined by regulation prescribed by the Securities and Exchange Commission.

"(6) DEFINITIONS.—For purposes of this subsection, the term 'insured depository institution' includes any subsidiary of the institution, other than an entity required to register with the Securities and Exchange Commission.

"(d) TRANSACTIONS ON BANK PREMISES.—

"(1) PROHIBITION.—No insured depository institution may permit any evidence of indebtedness of, or ownership interest in, such insured depository institution or any affiliate of such insured depository institution to be sold or offered for sale to the general public in any part of any office (other than an office that is not located within any State) of such insured depository institution that is commonly accessible to the general public for the purpose of accepting deposits.

"(2) EXCEPTIONS.—

"(A) REGISTERED BROKERS AND DEALERS.—This subsection shall not apply to transactions in shares of investment companies registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) that are affiliated with the bank, if such transactions are effected by or through a broker or dealer registered under this Act and are conducted in accordance with such rules, regulations, or orders as the Commission may prescribe consistent with the public interest, the protection of investors, and the purposes of this subsection.

"(B) DEPOSITS, CERTAIN MEANS OF PAYMENT TO THIRD PARTIES AND CERTAIN OTHER INSTRUMENTS.—This subsection shall not apply to any evidence of indebtedness or ownership interest that—

"(i) is a deposit in an insured depository institution; or

"(ii) constitutes a means of payment to a third party, such as a traveler's check, cashier's check, teller's check or money order.

"(e) PROHIBITION ON RECIPROCAL ARRANGEMENTS WITHIN THE HOLDING COMPANY.—No securities affiliate of a financial services holding company shall engage in any transactions or reciprocal arrangements for the purpose of evading any restriction or limitation imposed under this section.

"(f) INTERLOCKING DIRECTORS, MANAGEMENT OFFICIALS, AND EMPLOYEES PROHIBITED.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), no securities affiliate controlled by a financial services holding company may allow any director, management official, or employee of such affiliate to serve at the same time as a director, management official, or employee of any insured depository institution subsidiary of such holding company or any subsidiary of any such institution.

"(2) SEC AUTHORITY TO EXEMPT FROM PARAGRAPH (1).—

"(A) IN GENERAL.—The Commission may, by order or regulation issued after consultation with the Board of Governors of the Federal Reserve System, grant exemptions from paragraph (1) of this subsection.

"(B) FACTORS TO BE CONSIDERED.—In determining whether to grant an exemption under subparagraph (A), the Commission shall consider—

"(i) the size of the financial services holding companies involved and the size of the depository institution subsidiaries and securities affiliate involved;

"(ii) any burdens imposed by the application of paragraph (1);

"(iii) the safety and soundness of the depository institution subsidiaries and the securities affiliates of such financial services holding companies; and

"(iv) other appropriate factors, including unfair competition in securities activities and the improper exchange of confidential customer information.

"(C) EXCEPTION FOR CERTAIN SMALL FINANCIAL SERVICES HOLDING COMPANIES.—

"(i) IN GENERAL.—The Commission shall grant, by regulation, an exemption under clause (i) to allow a director, management official, or employee of any securities affiliate subsidiary of any financial services holding company the total banking assets of which do not exceed $500,000,000 to serve at the same time as a director, management official, or employee of any insured depository institution subsidiary of the company, or any subsidiary of such institution.

"(ii) ANNUAL ADJUSTMENT FOR INFLATION.—The dollar amount of assets referred to in subparagraph (B)(i) shall be adjusted for inflation by the Commission at the end of each calendar year beginning after December 31, 1991.

"(3) EXCEPTION FOR CERTAIN BACK OFFICE OPERATIONS.—Paragraph (1) shall not apply to any employee, other than an officer or director, employed by the financial services holding company or any subsidiary of such company to perform clerical, accounting, bookkeeping, statistical, or similar functions, including the receipt or transmittal of electronic transfers, if such functions are performed—

"(A) in an office or other facility which is not open to the general public; and

"(B) in a manner which is consistent with the requirements of this section as determined by the Commission after consultation with the Board of Governors of the Federal Reserve System.

"(4) MANAGEMENT OFFICIAL DEFINED.—The term 'management official' includes any officer and any employee with management functions (including a branch manager), any trustee of a business organization under the control of trustees (such as a mutual savings bank), and any person who has a representative or nominee serving in any such capacity.

"(g) AUTHORITY TO MODIFY AND IMPOSE ADDITIONAL SAFEGUARDS.—

"(1) IN GENERAL.—In order to maintain investor protection and to ensure that the activities of any securities affiliate are conducted without the support of insured depository institution affiliates, the Commission—

"(A) may, by regulation or order, adopt additional limitations or restrictions on arranging or accepting any extension of credit or financial assistance or any transaction which has the effect of providing financial assistance by any insured depository institution subsidiary of any financial services holding company to, or for the benefit of, a securities affiliate or any customer of such affiliate; and

"(B) after consulting with and considering the views of the Board of Governors of the Federal Reserve Board, may modify by regulation any limitation on the activities of a securities affiliate of a financial services holding companies contained in this section.

"(2) STANDARDS.—Any authority under paragraph (1)(A) shall be exercised only after taking into account potential adverse effects of any extension of credit or other transaction referred to in such subparagraph, including unfair competition, conflicts of interest, and unsafe banking practices. Any exercise of authority under paragraph (1)(B) to modify any limitation on activities contained in this section shall be exercised only if the Commission, after consulting with and considering the views of the Board of Governors of the Federal Reserve System, concludes that modifying such limitation is necessary to achieve a purpose of this Act, is consistent with the purposes of this section, the public interest, and the protection of investors, and would not be likely to result in any adverse effects, including unfair competition, conflicts of interest, unsafe banking practices, preservation of the safety and soundness of insured depository institutions, or undue risks to the Federal deposit insurance funds.

"(h) DIVESTITURE FOR CONTINUING COURSE OF MISCONDUCT.—

"(1) NOTICE OF PRELIMINARY DETERMINATION.—

"(A) PRELIMINARY FINDING.—In addition to any other regulatory and supervisory authority of the Commission, if the Commission has reason to believe that a financial services holding company which controls a securities affiliate or such securities affiliate has engaged in a continuing course of conduct involving a violation of this section or regulations prescribed or orders issued by the Commission pursuant to this section, the Commission may make an initial determination that the financial services holding company shall be required to terminate such company's control of either (i) the securities affiliate or (ii) the insured depository institution affiliate, at the option of such company.

"(B) NOTICE.—The Commission shall notify any financial services holding company with respect to which a preliminary determination is made under subparagraph (A) of such determination before the end of the 3-day period beginning on the date on which the determination is made.

"(C) CONTENTS OF NOTICE.—Any notice under subparagraph (B) shall contain a statement of the basis for the Commission's determination.

"(2) HEARING AND FINAL ORDER.—

"(A) REQUEST FOR HEARING.—Any financial services holding company which receives a notice under paragraph (1)(B) of this subsection may request, at any time before the end of the 30-day period beginning on the date of the receipt of such notice, a hearing before the Commission.

"(B) ADJUDICATORY PROCEDURE AND FINAL ORDERS.—Any proceeding under this paragraph shall be conducted in accordance with section 554 of title 5, United States Code, and all other provisions of subchapter II of chapter 5 of such title which are applicable with respect to any adjudication required to be determined on a record after opportunity for agency hearing.

"(3) FAILURE TO REQUEST REVIEW.—If any financial services holding company which receives a notice under paragraph (1)(B) of this subsection fails to request an agency hearing under paragraph (2)(A) of this subsection, such financial services holding company shall be deemed to have consented to the issuance of a final order affirming the initial finding without the necessity of the hearing provided for in this subsection.

"(4) DIVESTMENT WITHIN TIME SPECIFIED IN ORDER.—If any order issued by the Commission under this subsection becomes final and the order affirms the initial finding, the financial services holding company shall make the election and terminate control as required by such order by the end of the period specified in the order.".

SEC. 456. BROKER/DEALER DISCLOSURE WITH RESPECT TO FIDUCIARY PURCHASES IN UNDERWRITTEN SECURITIES.

Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end the following new subsection:

"(h) DISCLOSURE WITH RESPECT TO FIDUCIARY PURCHASES IN UNDERWRITTEN SECURITIES.—

"(1) RESTRICTION.—No broker or dealer may purchase, for a customer account in which the broker or dealer, acting as fiduciary, is authorized to determine the securities to be purchased or sold, any security (other than securities issued by an open-end investment company or a unit investment trust) of which such broker or dealer or affiliate thereof is an underwriter or a member of the selling group or which the broker, dealer, or affiliate otherwise places until—

"(A) in the case of an underwriting, 90 days after the end of the underwriting period; or

"(B) in the case of a placement, 90 days after the completion of the placement.

"(2) APPLICATION OF RESTRICTION.—The provisions of paragraph (1) apply whether or not such purchase is authorized by any trust agreement or any other insturment authorizing the broker or dealer to act in a fiduciary capacity, unless such purchase—

"(A) is permitted by State law;

"(B) is explicitly authorized in the trust agreement or other instrument establishing the fiduciary relationship; and

"(C) is effectuated by endorsement, by the creator of the fiduciary relationship, of a separate document that discloses (in accordance with regulations prescribed by the Commission) any conflict of interest that the broker or dealer may have in making such purchase.

"(3) SPECIAL RULE IN CASE OF INCAPACITATED CREATOR OF TRUST.—Notwithstanding any provision of Federal or State law, if the creator of any trust agreement or other instrument referred to in paragraph (2) is incapable of providing the authorization referred to in paragraph (2)(B) or effectuating an endorsement referred to in paragraph (2)(C), every beneficiary of such trust or instrument shall provide such authorization or effectuate such endorsement.".

PART II—BANK-INVESTMENT COMPANY ACTIVITIES

SEC. 461. CUSTODY OF INVESTMENT COMPANY ASSETS BY AFFILIATED BANKS.

(a) MANAGEMENT COMPANIES.—Section 17(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-17(f)) is amended—

(1) by redesignating clauses (1), (2), and (3) of the first sentence as clauses (A), (B), and (C), respectively;

(2) by designating the five sentences of such section as paragraphs (1) through (5), respectively;

(3) by adding at the end thereof the following new paragraph:

"(6) Notwithstanding paragraph (1)(A) of this subsection, if a bank described in such paragraph, or an affiliated person thereof, is an affiliated person of the registered management company, such bank may not serve as custodian under this subsection unless permitted by such rules, regulations, or orders as the Commission prescribes consistent with the protection of investors.".

(b) UNIT INVESTMENT TRUSTS.—Section 26(a)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-26(a)(1)) is amended by inserting after "bank" the following: "that is not an affiliated person of such principal underwriter or depositor and is not an affiliated person of an affiliated person of such principal underwriter or depositor, unless permitted by such rules, regulations, or orders as the Commission prescribes consistent with the protection of investors".

(c) AMENDMENT TO SECTION 36(a) OF THE INVESTMENT COMPANY ACT OF 1940.—Section 36(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-35(a)) is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; or"; and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) as a custodian.".

SEC. 462. AFFILIATED PERSONS AND TRANSACTIONS.

(a) AFFILIATED PERSONS.—Section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(3)) is amended—

(1) in subparagraph (E), by striking "thereof; and" and inserting in lieu thereof "thereof;"; and

(2) by striking the period at the end of clause (F) and inserting the following: "; and (G) if such other person is an investment company, any person or class of persons which the Commission by rule, regulation, or order determines to be an affiliated person by reason of having had, at any time since the beginning of the last two completed fiscal years of such investment company, a material business or professional relationship with such investment company or with any person that is a principal underwriter for, or promoter or sponsor of, such investment company or any affiliated person (as described in clauses (A) through (F) of this paragraph) of such company. For purposes of clause (G), a material business or professional relationship means a relationship arising from material extensions of credit or other material borrowing and such other relationships as the Commission, by rule, regulation, or order, determines to be within the intent of this definition, consistent with the public interest and the protection of investors.".

(b) PURCHASES OR ACQUISITIONS DURING UNDERWRITING.—Section 10(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-10(f)) is amended by—

(1) inserting "(1)" immediately before "a principal underwriter" the first place it appears; and

(2) inserting after "for the issuer" the following: "; or (2) the proceeds of which will be used to retire any part of an indebtedness owed to a bank or an insured depository institution (as such term is defined in section 3(c)(2) of the Federal Deposit Insurance Act) where the bank, an insured depository institution, or an affiliated person thereof is an affiliated person of such registered company".

SEC. 463. PROHIBITION OF CONTROLLING INTEREST IN INVESTMENT COMPANY.

Section 15 of the Investment Company Act of 1940 (15 U.S.C. 80a-15) is amended by adding at the end the following new subsection:

"(g) PROHIBITION OF CONTROLLING INTEREST IN INVESTMENT COMPANY.—If any investment adviser to a registered investment company, or an affiliated person of such investment adviser, also holds shares of the investment company in a fiduciary capacity, that investment adviser or affiliated person may own, directly or indirectly, a controlling interest in such registered investment company only—

"(1) if it passes through to the beneficial owners of the shares, including any person acting in a fiduciary capacity who is not an affiliated person of that investment adviser or any affiliated person thereof, the power to vote the shares of the investment company;

"(2) if it votes the shares of the investment company held by it in the same proportion as shares held by all other shareholders of the investment company; or

"(3) as otherwise permitted under such rules, regulations, or orders as the Commission may prescribe for the protection of investors.".

SEC. 464. BORROWING FROM AN AFFILIATED BANK.

Section 18(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-18(f)) is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding the provisions of paragraph (1) of this subsection, it shall be unlawful for any registered investment company to borrow from any bank or insured depository institution (as such term is defined in section 3(c)(2) of the Federal Deposit Insurance Act) if such bank, insured depository institution, or any affiliated person thereof is an affiliated person of such company, except that the Commission may, by rule, regulation, or order, permit such borrowing which the Commission finds to be in the public interest and consistent with the protection of investors.".

SEC. 465. INDEPENDENT DIRECTORS.

(a) DEFINITION OF INTERESTED PERSON.—Section 2(a)(19)(A) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(19)(A)) is amended—

(1) in clause (v), by striking out "1934 or any affiliated person of such a broker or dealer, and" and inserting in lieu thereof: "1934 or any person that, at any time during the last 6 months, has executed any portfolio transactions for, engaged in any principal transactions with, or loaned money to, the investment company or any other investment company having the same investment adviser, principal underwriter, sponsor, or promoter, or any affiliated person of such a broker, dealer, or person,";

(2) by redesignating clause (vi) as clause (vii); and

(3) by inserting after clause (v) the following new clause:

"(vi) any employee of any bank or insured depository institution (as that term is defined in section 3(c)(2) of the Federal Deposit Insurance Act) that acts as custodian or transfer agent for such company, and".

(b) BANK HOLDING COMPANIES.—Section 10(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-10(c)) is amended by striking "bank, except" and inserting in lieu thereof: "bank (together with its subsidiaries) or any one bank holding company (together with its affiliates and subsidiaries), as those terms are defined in the Bank Holding Company Act of 1956, except".

SEC. 466. PROHIBITION AGAINST USE OF A BANK'S NAME BY AN AFFILIATED MUTUAL FUND.

Section 35(d) of the Investment Company Act of 1940 (15 U.S.C. 80a-35(d)) is amended by inserting after the first sentence thereof the following: "It shall be deceptive and misleading for any registered investment company which has as an investment adviser or distributor, a bank, or an insured depository institution (as such term is defined in section 3(c)(2) of the Federal Deposit Insurance Act) or affiliated person thereof, to adopt, as part of the name, title, or logo of such company, or of any security of which it is the issuer, any word or design which is the same as or similar to, or a variation of, the name, title, or logo of such bank or insured depository institution.".

SEC. 467. DEFINITION OF BROKER.

Section 2(a)(6) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(6)) is amended to read as follows:

"(6) 'Broker' has the same meaning as in the Securities Exchange Act of 1934, but does not include any person solely by reason of the fact that such person is an underwriter for one or more investment companies.".

SEC. 468. DEFINITION OF DEALER.

Section 2(a)(11) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(11)) is amended to read as follows:

"(11) 'Dealer' has the same meaning as in the Securities Exchange Act of 1934, but does not include an insurance company or investment company.".

SEC. 469. TREATMENT OF BANK COMMON TRUST FUNDS.

(a) SECURITIES ACT OF 1933.—Section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) is amended by striking "or any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as trustee, executor, administrator, or guardian" and inserting "or any interest or participation in any common trust fund or similar fund that is excluded from the definition of the term 'investment company' under section 3(c)(3) of the Investment Company Act of 1940".

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 3(a)(12)(A)(iii) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)(A)(iii) is amended to read as follows:

"(iii) any interest or participation in any common trust fund or similar fund that is excluded from the definition of the term 'investment company' under section 3(c)(3) of the Investment Company Act of 1940;".

(c) INVESTMENT COMPANY ACT OF 1940.—Section 3(c)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(3)) is amended by striking the period at the end and inserting the following: ", if—

"(A) such fund is employed by the bank solely as an aid to the administration of trusts, estates, or other accounts created and maintained for a fiduciary purpose;

"(B) except in connection with the ordinary advertising of the bank's fiduciary services, interests in such fund are not—

"(i) advertised; or

"(ii) offered for sale to the general public; and

"(C) such fund is not charged any fees or expenses that, when added to any other compensation charged by the bank to a participant account, would exceed the total amount of compensation that would have been charged to such participant account if no assets of the account had been invested in interests in the fund.".

SEC. 470. PURCHASE OF INVESTMENT COMPANY SECURITIES AS FIDUCIARY.

Section 17 of the Investment Company Act of 1940 (15 U.S.C. 80a-17) is amended by inserting at the end thereof the following new subsection:

"(k) PURCHASE OF INVESTMENT COMPANY SECURITIES AS FIDUCIARY.—

"(1) IN GENERAL.—If any financial services holding company, bank, insured depository institution (as that term is defined in section 3(c)(2) of the Federal Deposit Insurance Act), or affiliated person thereof organizes, sponsors, controls, promotes, or provides investment advice to a registered investment company, or underwrites the securities issued by a registered investment company, it shall be unlawful for such financial services holding company, such bank, such insured depository institution, or such affiliated person thereof, or any person delegated investment authority by a bank or an insured depository institution to exercise discretion over fiduciary accounts to purchase as fiduciary any securities issued by such investment company, unless any investment advisory or similar fee attributable to the fiduciary assets invested in securities of such investment company is waived.

"(2) EXCEPTIONS.—The prohibition provided in paragraph (1) shall not apply if—

"(A) such purchase is required by court order;

"(B) in the case of a discretionary account immediately revocable upon notice to the fiduciary, the beneficiary of such account has first received full disclosure of such information as required pursuant to paragraph (3) of this subsection; or

"(C) in all other cases, the beneficiary or beneficiaries of the fiduciary account has first received full disclosure of such information as required pursuant to paragraph (3) of this subsection and has granted prior, written consent.

"(3) DISCLOSURE RULES.—The Commission shall, after consultation with the appropriate Federal banking agency, prescribe by rule, regulation, or order, the manner, form, and content of the information required to be disclosed under paragraph (2), as the Commission determines to be necessary or appropriate in the public interest and for the protection of investors.".

SEC. 471. COMMON TRUST FUND CONVERSIONS.

Section 17 of the Investment Company Act of 1940 (15 U.S.C. 80a-19) is amended by inserting at the end thereof the following new subsection:

"(l) COMMON TRUST FUND CONVERSIONS.—

"(1) IN GENERAL.—It shall be unlawful for any financial services holding company, bank, insured depository institution (as that term is defined in section 3(c)(2) of the Federal Deposit Insurance Act), or affiliated person thereof to convert any common trust fund or similar fund maintained by it into a registered investment company organized, sponsored, promoted, controlled, or advised, or the securities of which are underwritten, by such a financial services holding company, such bank, such depository institution, or such affiliated person thereof, unless any investment advisory or similar fee owed to any of the foregoing as a result of the discretionary investment of fiduciary assets in securities of such investment company is waived.

"(2) EXCEPTION.—The prohibition provided in paragraph (1) shall not apply where—

"(A) such conversion is required by court order;

"(B) in the case of a discretionary account immediately revocable upon notice to the fiduciary, the beneficiary of such account has first received full disclosure of such information as required pursuant to paragraph (3) of this subsection; or

"(C) in all other cases, the beneficiary or beneficiaries of the fiduciary account has first received full disclosure of such information as required pursuant to paragraph (3) of this subsection and has granted prior, written consent.

"(3) DISCLOSURE RULES.—The Commission shall, after consultation with the appropriate Federal banking agency, prescribe by rule, regulation, or order, the manner, form, and content of the information required to be disclosed under paragraph (2), as the Commission determines to be necessary or appropriate in the public interest and for the protection of investors.".

SEC. 472. EXTENSION OF CREDIT FOR PURCHASE OF INVESTMENT COMPANY SECURITIES.

Section 17 of the Investment Company Act of 1940 (15 U.S.C. 80a-17) is amended by adding at the end thereof the following new subsection:

"(m) EXTENSIONS OF CREDIT FOR PURCHASES OF SECURITIES.—It shall be unlawful for any financial services holding company, bank, or insured depository institution (as that term is defined in section 3(c)(2) of the Federal Deposit Insurance Act) that is, or is an affiliated person of, a person that organizes, sponsors, promotes, controls, or provides investment advice to, a registered open-end investment company or unit investment trust, or underwrites the securities issued by such company or trust, directly or indirectly, to extend credit or to arrange for the extension of credit to any person—

"(1) for the purchase of securities issued by such company or trust; or

"(2) on any security issued by such company or trust, unless (A) the security was purchased by such person pursuant to a plan for the automatic reinvestment of the dividends of such company or trust, or (B) such person has owned the security for more than 30 days or for such other period as the Commission may prescribe by rule or regulation in the public interest and consistent with the protection of investors.".

SEC. 473. ACCESS TO NONPUBLIC INFORMATION.

Section 17 of the Investment Company Act of 1940 (15 U.S.C. 80a-17) is amended by inserting at the end thereof the following new subsection:

"(n) ACCESS TO NONPUBLIC INFORMATION.—

"(1) ACCESS RESTRICTION.—It shall be unlawful for any financial services holding company, bank, insured depository institution (as that term is defined in section 3(c)(2) of the Federal Deposit Insurance Act), or affiliated person thereof, that acts as investment adviser to a registered investment company to provide any employee or agent providing investment advisory services to such investment company with access to any nonpublic information concerning—

"(A) the identity of any customer of such financial services holding company, bank, or insured depository institution; or

"(B) any relationship arising from material extensions of credit or other material borrowings between any customer and such financial services holding company, bank, or insured depository institution.

"(2) RULEMAKING REQUIRED.—The Commission, as it deems necessary or appropriate in the public interest or for the protection of investors, shall adopt rules or regulations to require specific policies or procedures reasonably designed to ensure compliance with this subsection.".

SEC. 474. REMOVAL OF THE EXCLUSION FROM THE DEFINITION OF INVESTMENT ADVISER FOR BANKS THAT ADVISE INVESTMENT COMPANIES.

Section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(11)) is amended—

(1) by striking subparagraph (A) and inserting the following: "(A) a bank, except that the term 'investment adviser' includes any bank to the extent that such bank acts as an investment adviser to a registered investment company unless, as permitted by Commission rule, regulation, or order, the bank performs such services through a separately identifiable department or division of the bank, in which case the department or division and not the bank shall be deemed the investment adviser;"; and

(2) by adding at the end thereof the following: "For purposes of clause (A) of this paragraph, the term 'separately identifiable department or division of a bank' means a unit that—

"(i) is under the direct supervision of an officer or officers designated by the directors of the bank as responsible for the day-to-day conduct of the bank's investment adviser activities for one or more investment companies, including the supervision of all bank employees engaged in the performance of such activities; and

"(ii) separately maintains in, or can readily extract from, such unit's own facilities or the facilities of the bank, all of the records relating to such investment adviser activities, and such records are so maintained or otherwise accessible as to permit independent examination thereof.".

SEC. 475. BANK AND INSURANCE POOLED INVESTMENT VEHICLES.

(a) The Securities and Exchange Commission shall examine—

(1) in consultation with the Secretary of Labor, the appropriate treatment of bank collective investment funds and separate accounts under the securities laws and the Employee Retirement Income Security Act (29 U.S.C. 1001 et seq.); and

(2) the appropriate treatment of common trust funds under the securities laws.

(b) Not later than one year after the date of enactment of this Act, the Securities and Exchange Commission shall transmit to the Congress a final report which shall contain a detailed statement of findings and conclusions, including recommendations for such administrative and legislative action as the Commission deems advisable.

SEC. 476. DEFINITION OF BROKER.

Section 202(a)(3) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(3)) is amended to read as follows:

"(3) 'Broker' has the same meaning as in the Securities Exchange Act of 1934.".

SEC. 477. DEFINITION OF DEALER.

Section 202(a)(7) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(7)) is amended to read as follows:

"(7) 'Dealer' has the same meaning as in the Securities Exchange Act of 1934, but does not include an insurance company or investment company.".

PART III—EFFECTIVE DATE

SEC. 480. EFFECTIVE DATE.

The amendments made by this chapter shall take effect on January 1, 1993.

CHAPTER 2—ADMINISTRATION OF SECURITIES LAWS WITH RESPECT TO SECURITIES OF DEPOSITORY INSTITUTIONS

PART I—AMENDMENTS TO THE SECURITIES ACT OF 1933

SEC. 481. EXEMPTION TO PERMIT TRANSITION TO HOLDING COMPANY STRUCTURES.

Section 3(a)(9) of the Securities Act of 1933 (15 U.S.C. 77c(a)(9)) is amended to read as follows:

"(9) Except with respect to a security exchanged in a case under title 11 of the United States Code—

"(A) any security exchanged by the issuer with its existing security holders exclusively where no commission or other remuneration is paid or given directly or indirectly for soliciting such exchange; or

"(B) any security issued or exchanged in connection with a transaction solely involving exchanges or substitutions of securities as part of a reorganization of a corporation into a holding company, if—

"(i) as part of the reorganization, the security holders exchange their securities of the corporation for securities of a newly formed holding company with no significant assets other than securities of the corporation and its existing subsidiaries, and receive securities of the same class evidencing the same proportional share or debt interests in the holding company as they held in the corporation prior to the transaction, except for changes resulting from lawful elimination of fractional interests and the exercise of dissenting shareholder rights under applicable law;

"(ii) the rights and interests of security holders in the holding company are substantially the same as those in the corporation prior to the transaction other than as may be required by law; and

"(iii) the holding company has substantially the same assets and liabilities as the corporation had prior to the transaction.".

PART II—REPORT AND AUDIT REQUIREMENTS

SEC. 487. REPORTS AND AUDIT REQUIREMENTS.

(a) AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.—The Securities Exchange Act of 1934 is amended by inserting after section 13 (15 U.S.C. 78m) the following new section:

"FRAUD DETECTION AND DISCLOSURE

"SEC. 13A. (a) AUDIT REQUIREMENTS.—Each audit required pursuant to this title of an issuer's financial statements by an independent public accountant shall include, in accordance with methods prescribed by the Commission, the following—

"(1) procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts;

"(2) procedures designed to identify related party transactions which are material to the financial statements or otherwise require disclosure therein; and

"(3) an evaluation of whether there is substantial doubt about the issuer's ability to continue as a going concern over the ensuing fiscal year.

"(b) REQUIRED RESPONSE TO AUDIT DISCOVERIES.—(1) If, in the course of conducting any audit pursuant to this title to which subsection (a) applies, the independent public accountant detects or otherwise becomes aware of information indicating that an illegal act (whether or not perceived to have a material effect on the issuer's financial statements) has or may have occurred, the accountant shall, in accordance with methods prescribed by the Commission—

"(A)(i) determine whether it is likely that an illegal act has occurred, and (ii) if so, determine and consider the possible effect of the illegal act on the financial statements of the issuer, including any contingent monetary effects, such as fines, penalties, and damages; and

"(B) as soon as practicable inform the appropriate level of the issuer's management and assure that the issuer's audit committee, or the issuer's board of directors in the absence of such a committee, is adequately informed with respect to illegal acts that have been detected or otherwise come to the attention of such accountant in the course of the audit, unless the illegal act is clearly inconsequential.

"(2)(A) If, having first assured itself that the audit committee of the board of directors of the issuer or the board (in the absence of an audit committee) is adequately informed with respect to illegal acts that have been detected or otherwise come to the accountant's attention in the course of such accountant's audit, the independent public accountant concludes that—

"(i) any such illegal act has a material effect on the financial statements of the issuer,

"(ii) senior management has not taken, and the board of directors has not caused senior management to take, timely and appropriate remedial actions with respect to such illegal act, and "(iii) the failure to take remedial action is reasonably expected to warrant departure from a standard auditor's report, when made, or warrant resignation from the audit engagement,

the independent public accountant shall as soon as practicable and directly report its conclusions to the board of directors.

"(B) An issuer whose board of directors has received a report pursuant to this paragraph shall inform the Commission by notice within one business day of receipt of such report and shall furnish the independent public accountant making such report with a copy of the notice furnished the Commission. If the independent public accountant making such report shall fail to receive a copy of such notice within the required one-business-day period, the independent public accountant shall—

"(i) resign from the engagement; or

"(ii) furnish to the Commission a copy of its report (or the documentation of any oral report given) within the next business day following such failure to receive notice.

"(C) An independent public accountant electing resignation shall, within the one business day following a failure by an issuer to notify the Commission under subparagraph (B), furnish to the Commission a copy of the accountant's report (or the documentation of any oral report given).

"(c) AUDITOR LIABILITY LIMITATION.—No independent public accountant shall be liable in any manner to any person for any finding, conclusion, report, or statement made in connection with subsection (b) of this section, including any rules promulgated pursuant thereto, if such finding, conclusion, report, or statement is made in good faith, based upon the independent public accountant's compliance with such subsections or rules (or both). With respect to subsection (b), the limitation on liability provided by this subsection shall not be effective with respect to any finding, conclusion, report, or statement made with respect to fiscal years beginning on or after January 1, 1996.

"(d) PRESERVATION OF EXISTING AUTHORITY.—Nothing in this section shall be construed to limit or otherwise affect the authority of the Commission under this title.

"(e) DEFINITIONS.—As used in this section, the term 'illegal act' means any action or omission to act that violates any law, or any rule or regulation having the force of law.".

(b) EFFECTIVE DATES.—As to any registrant that is required to file selected quarterly financial data pursuant to item 302(a) of Regulation S-K (17 CFR 229.302(a)) of the Securities and Exchange Commission, the amendments made by subsection (a) of this section shall apply to any annual report for any period beginning on or after January 1, 1992. As to any other registrant, such amendment shall apply for any period beginning on or after January 1, 1993.

Subtitle C—General Provisions

SEC. 491. REPORT ON RESOURCES FOR IMPLEMENTATION.

The Chairman of the Securities and Exchange Commission and the Chairman of the Board of Governors of the Federal Reserve shall, on April 15, 1992, and annually for the 5 succeeding years, each submit to the Congress and the President a report stating, to the best of each such Chairman's knowledge and belief, whether or not their respective agencies have the manpower, funding, and other resources necessary—

(1) to oversee the anticipated financial activities of holding companies, insured depository institutions, and securities affiliates to be overseen by them, respectively, pursuant to this Act (and the amendments made by this Act); and

(2) to enforce the statutes and regulations within their respective jurisdictions that are applicable to such activities.

The report shall identify, in reasonable detail, any deficiencies in such staffing, funding, or other resources, and the steps being taken to correct such deficiencies. Within 30 days after receiving such report, the President shall transmit to the Congress a statement by the President identifying any areas in which the President disagrees with the conclusions of the report.

SEC. 492. STUDY OF EFFECTIVENESS OF CUSTOMER AND INVESTOR PROTECTION FIREWALLS.

(a) STUDY REQUIRED.—The Securities and Exchange Commission and the Board of Governors of the Federal Reserve System shall jointly conduct a study of the limitations on activities of financial services holding companies and their affiliates contained in the amendments made by this title.

(b) FACTORS TO CONSIDER.—As part of the study under subsection (a), the Securities and Exchange Commission and the Board of Governors of the Federal Reserve System shall assess—

(1) the extent that financial services holding companies have engaged in financial activities through securities affiliates;

(2) the policies and procedures used by financial services holding companies and their affiliates to comply with limitations on activities of financial services holding companies and their affiliates described in subsection (a);

(3) the extent of compliance with such limitations;

(4) the burden of compliance with such limitations for the persons subject to such limitations, including foregone business opportunities; and

(5) the burden of examination, investigation, and compliance with such limitations on the Securities and Exchange Commission and the Board of Governors of the Federal Reserve.

(c) REPORT TO CONGRESS.—By January 1, 1995, the Securities and Exchange Commission and the Board of Governors of the Federal Reserve System shall jointly submit a report to Congress on the findings and conclusions made with respect to the study under subsection (a), together with any recommendation for any legislative or administrative action that such agencies may determine to be appropriate.

SEC. 493. SECURITIES REGISTRATION AND REPORTING STUDY.

(a) STUDY REQUIRED.—The Securities and Exchange Commission and the Board of Governors of the Federal Reserve System shall conduct a study of the continuing need for, and operation of, sections 3(a)(2) and 3(a)(5) of the Securities Act of 1933 and section 12(i) of the Securities Exchange Act of 1934 in the light of changes in the organization and operation of insured depository institutions as a consequence of the enactment of this Act. Such study shall include an analysis of—

(1) any reduction in the number of insured depository institutions to which such section 12(i) applies;

(2) the costs of continuing to have separate administration and enforcement of reporting and disclosure provisions under the authority of such section 12(i);

(3) any deviations in the regulations prescribed to enforce such reporting and disclosure requirements;

(4) any differences in enforcement or accounting practices occurring as a result of the operations of any of such sections; and

(5) such other factors as the Commission and the Board consider to be relevant to the consideration of whether to repeal or significantly amend such sections.

(b) DATE FOR REPORT.—The Commission and the Board shall submit to the Congress a report on the study conducted under subsection (a) not later than January 1, 1995. Such report shall include, in addition to a discussion of each of the issues required to be analyzed under subsection (a), such recommendations for legislation as the Commission and the Board consider appropriate.

TITLE V—FEDERAL DEPOSIT INSURANCE REFORM

Subtitle A—Activities

SEC. 501. LIMITATIONS ON BROKERED DEPOSITS AND DEPOSIT SOLICITATIONS.

(a) IN GENERAL.—Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended—

(1) in subsection (c), by striking "an insured depository institution" and inserting "any level 1 or level 2 depository institution";

(2) by striking subsection (e) and inserting the following new subsection:

"(e) ADDITIONAL RESTRICTIONS.—The Corporation may, by regulation or order, impose—

"(1) such additional restrictions on the acceptance of brokered deposits by any troubled institution as the Corporation may determine to be appropriate; and

"(2) such restrictions or limitations as the Corporation may determine to be appropriate on the acceptance, renewal, or rollover of funds obtained, directly or indirectly, through any deposit broker by any insured depository institution which the Corporation determines—

"(A) has suffered a material decline in capital so as to constitute a threat to the institution's solvency;

"(B) has knowingly or willfully violated any cease and desist order issued to the institution by the appropriate Federal banking agency, or any written agreement entered into between the institution and such agency, which relates to the safety or soundness of the institution; or

"(C) has failed to comply with any applicable reporting or notification requirements imposed by the Corporation with respect to the acceptance of brokered deposits by an insured depository institution.";

(3) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and inserting after subsection (e) (as amended by paragraph (2) of this section) the following new subsection:

"(f) DEPOSIT SOLICITATION RESTRICTED.—An insured depository institution which does not meet the institution's applicable minimum capital requirements, or an employee of any such institution, shall not engage, directly or indirectly, in the solicitation of deposits by offering rates of interest (with respect to such deposits) which are significantly higher than the prevailing rates of interest on comparable deposits offered by other insured depository institutions in such institution's normal market areas.";

(4) in paragraph (4)(A) of subsection (g) (as so redesignated by paragraph (3) of this subsection) by striking "exclusively"; and

(5) by striking subsection (h) (as so redesignated by paragraph (3) of this subsection) and inserting the following new subsection:

"(h) TROUBLED INSTITUTION DEFINED.—For purposes of this section, the term 'troubled institution' means any insured depository institution which—

"(1) does not meet the minimum capital requirements applicable with respect to such institution;

"(2) based on the most recent report of condition, report of examination, or inspection of such institution, has been assigned a CAMEL composite rating of 4 or 5 under the Uniform Financial Institutions Rating System or an equivalent rating under a comparable system; or

"(3) has been informed in writing by the appropriate Federal banking agency that, on the basis of the institution's financial condition, the institution has been designated a 'troubled institution' for purposes of this section.".

(b) CLERICAL AMENDMENT.—The heading for section 29 of the Federal Deposit Insurance Corporation is amended to read as follows:

"SEC. 29. BROKERED DEPOSITS AND DEPOSIT SOLICITATIONS.".

SEC. 502. RISK-BASED ASSESSMENTS.

(a) ASSESSMENT RATES.—

(1) MAXIMUM RATE.—Section 7(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(C)) is amended—

(A) in clause (i), by striking "the greater of 0.15 percent or"; and

(B) by inserting after clause (iii), the following new clause:

"(iv) Until the Corporation establishes a risk-based assessment system pursuant to paragraph (8), the annual assessment rate for Bank Insurance Fund members shall not be less than 0.15 percent.".

(2) USE OF ESTIMATES AND PROJECTIONS.—Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following new subparagraph:

"(B) USE OF ESTIMATES AND PROJECTIONS.—

"(i) AUTHORITY TO COMPUTE RATES.—The Corporation may make and use such estimates and projections as may be appropriate for computing assessment rates to be paid by Bank Insurance Fund members and Savings Association Insurance Fund members.

"(ii) AUTHORITY TO SET RATES.—The Corporation may—

"(I) set any assessment rate for Bank Insurance Fund members; and

"(II) after December 31, 1997, set any assessment rate for Savings Association Insurance Fund members.".

(3) REVISION OF ASSESSMENT BASE.—Section 7(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)) is amended to read as follows:

"(3) AVERAGE ASSESSMENT BASE.—The average assessment base for any insured depository institution for any semiannual period shall be the average of such depository institution's assessment base for each of the following 2 dates:

"(A) the 1st of the 2 dates falling within such semiannual period for which the depository institution is required to submit reports of condition pursuant to subsection (a)(3) (hereafter in this section referred to as 'reports of condition'); and

"(B) the 2nd of the 2 dates falling within the semiannual period immediately preceding such semiannual period for which the depository institution is required to submit reports of condition.".

(b) RISK-BASED ASSESSMENTS.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) (as amended by this section and sections 103(b) and 232(b)(2) of this Act) is amended by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (9), (10), (11), and (12) and by inserting after paragraph (7) (as added by section 103(b) of this Act) the following new paragraph:

"(8) RISK-BASED ASSESSMENTS.—

"(A) IN GENERAL.—Subject to paragraph (1), the Board of Directors shall, by regulation, establish a risk-based assessment system for insured depository institutions.

"(B) RISK-BASED ASSESSMENT SYSTEM DEFINED.—For purposes of this paragraph, the term 'risk-based assessment system' means a system under which the assessment rate determined for each insured depository institution is based on the risk that the institution poses to the appropriate deposit insurance fund.

"(C) PROVISIONS APPLICABLE TO ESTABLISHMENT OF SYSTEM.—In establishing a risk-based assessment system, the Board of Directors may use the following criteria:

"(i) The ratio of capital to assets of the insured depository institution, all members of the appropriate deposit insurance fund, or any group of such members.

"(ii) The activities conducted by the insured depository institution, all members of the appropriate deposit insurance fund, or any group of such members.

"(iii) The assets and liabilities of the insured depository institution, all members of the appropriate deposit insurance fund, or any group of such members.

"(iv) Such other circumstances, conditions, activities or risk factors which the Board of Directors determines to be appropriate.".

(c) REGULATIONS.—

(1) IN GENERAL.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation shall prescribe the final regulations required by section 7(b)(8) of the Federal Deposit Insurance Act (as added by subsection (b) of this section).

(2) EFFECTIVE DATE.—Such regulations shall take effect before the end of the 12-month period beginning on the date such regulations are published in final form.

(d) MORTGAGE LENDING SAFEGUARDS.—

(1) ANALYSIS.—Before the end of the 12-month period beginning on the date of the enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation shall analyze the impact of such system on the following categories of lending:

(A) Single family mortgages.

(B) Single family mortgages located in low- and moderate-income census tracts.

(C) Nonconforming single family mortgages.

(D) Multifamily mortgages.

(E) Construction lending for—

(i) single family homes;

(ii) single family homes located in low- and moderate-income census tracts;

(iii) nonconforming single family homes; and

(iv) multifamily homes.

(F) Small business loans.

(2) REPORT.—Before the issuance of final regulations implementing the risk-based assessment system established pursuant to the amendments made by subsection (b), the Board of Directors of the Federal Deposit Insurance Corporation shall submit to the Congress a report describing the findings of the analysis required under paragraph (1).

(e) PUBLIC HEARING.—Before the issuance of final regulations implementing the risk-based assessment system established pursuant to the amendments made by subsection (b), the Board of Directors of the Federal Deposit Insurance Corporation shall hold at least 1 public hearing regarding that system.

(f) 2-YEAR REVIEW.—Before the end of the 2-year period beginning on the effective date of final regulations implementing the risk-based assessment system established pursuant to the amendments made by subsection (b), the Board of Directors of the Federal Deposit Insurance Corporation shall—

(1) using data collected from examinations of insured depository institutions, analyze the impact of the risk-based assessment system on the categories of lending described in subsection (d)(1); and

(2) submit to the Congress a report on the findings of that analysis, including recommendations for any legislation needed to ensure that the risk-based assessment system does not have an inequitable impact on those categories of lending.

SEC. 503. RESTRICTIONS ON INSURED STATE BANK ACTIVITIES.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 23 the following new section:

"SEC. 24. ACTIVITIES OF INSURED STATE BANKS.

"(a) IN GENERAL.—After the end of the 1-year period beginning on the date of the enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, an insured State bank may not engage as principal in any type of activity that is not permissible for a national bank unless—

"(1) the Corporation has determined that the activity would pose no significant risk to the appropriate deposit insurance fund; and

"(2) the State bank is, and continues to be, in compliance with applicable capital standards prescribed by the appropriate Federal banking agency.

"(b) INSURANCE UNDERWRITING.—Notwithstanding subsection (a), an insured State bank may not engage in insurance underwriting except to the extent that activity is permissible for national banks.

"(c) EQUITY INVESTMENTS BY INSURED STATE BANKS.—

"(1) IN GENERAL.—An insured State bank may not, directly or indirectly, acquire or retain any equity investment of a type that is not permissible for a national bank.

"(2) EXCEPTION FOR CERTAIN SUBSIDIARIES.—Paragraph (1) shall not prohibit an insured State bank from acquiring or retaining an equity investment in a subsidiary of which the insured State bank is a majority owner.

"(3) EXCEPTION FOR QUALIFIED HOUSING PROJECTS.—

"(A) EXCEPTION.—Notwithstanding any other provision of this subsection, an insured State bank may invest as a limited partner in a partnership, the sole purpose of which is direct or indirect investment in the acquisition, rehabilitation, or new construction of a qualified housing project.

"(B) LIMITATION.—The aggregate of the investments of any insured State bank pursuant to this paragraph shall not exceed 2 percent of the total assets of the bank.

"(C) QUALIFIED HOUSING PROJECT DEFINED.—As used in this paragraph—

"(i) QUALIFIED HOUSING PROJECT.—The term 'qualified housing project' means residential real estate that is intended to primarily benefit lower income people throughout the period of the investment.

"(ii) LOWER INCOME.—The term 'lower income' means income that less than or equal to the median income based on statistics from State or Federal sources.

"(4) TRANSITION RULE.—

"(A) IN GENERAL.—The Corporation shall require any insured State bank to divest any equity investment the retention of which is not permissible under this subsection as quickly as can be prudently done, and in any event before the end of the 5-year period beginning on the date of the enactment of the Financial Institutions Safety and Consumer Choice Act of 1991.

"(B) TREATMENT OF NONCOMPLIANCE DURING DIVESTMENT.—With respect to any equity investment held by any insured State bank on the date of enactment of the Financial Institutions Safety and Consumer Choice Act of 1991 which was lawfully acquired before such date, the bank shall be deemed not to be in violation of the prohibition in this subsection on retaining such investment so long as the bank complies with the applicable requirements established by the Corporation for divesting such investments.

"(d) SUBSIDIARIES OF INSURED STATE BANKS.—

"(1) IN GENERAL.—After the end of the 1-year period beginning on the date of the enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, a subsidiary of an insured State bank may not engage as principal in any type of activity that is not permissible for a subsidiary of a national bank unless—

"(A) the Corporation has determined that the activity poses no significant risk to the appropriate deposit insurance fund; and

"(B) the bank is, and continues to be, in compliance with applicable capital standards prescribed by the appropriate Federal banking agency.

"(2) SECURITIES AND INSURANCE UNDERWRITING PROHIBITED.—

"(A) PROHIBITION.—Notwithstanding paragraph (1) and any provision of the Financial Institutions Safety and Consumer Choice Act of 1991, no subsidiary of an insured State bank may engage in securities or insurance underwriting except to the extent such activities are permissible for national banks.

"(B) EXCEPTION.—Subparagraph (A) does not apply to a subsidiary of an insured State bank if—

"(i) the insured State bank was required, before June 1, 1991, to provide title insurance as a condition of the bank's initial chartering under State law; and

"(ii) control of the insured State bank has not changed since that date.

"(e) SAVINGS BANK LIFE INSURANCE.—

"(1) IN GENERAL.—No provision of this Act or the Financial Institutions Safety and Consumer Choice Act of 1991 shall be construed as prohibiting or impairing the sale or underwriting of savings bank life insurance, or the ownership of stock in a savings bank life insurance company, by any insured bank which—

"(A) is located in the Commonwealth of Massachusetts or the State of New York or Connecticut; and

"(B) meets the consumer disclosure requirements under section 18(k) with respect to such insurance.

"(2) FDIC FINDING AND ACTION REGARDING RISK.—

"(A) FINDING.—Before the end of the 1-year period beginning on the date of the enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, the Corporation shall make a finding whether savings bank life insurance activities of insured banks pose or may pose any significant risk to the insurance fund of which such banks are members.

"(B) ACTIONS.—

"(i) IN GENERAL.—The Corporation shall, pursuant to any finding made under subparagraph (A), take appropriate actions to address any risk that exists or may subsequently develop with respect to insured banks described in paragraph (1)(A).

"(ii) AUTHORIZED ACTIONS.—Actions the Corporation may take under this subparagraph include requiring the modification, suspension, or termination of insurance activities conducted by any insured bank if the Corporation finds that the activities pose a significant risk to any insured bank described in paragraph (1)(A) or to the insurance fund of which such bank is a member.

"(f) CURRENTLY PERMITTED EQUITY INVESTMENTS.—

"(1) IN GENERAL.—An insured State bank shall not acquire or retain, directly or indirectly, any equity investment of a type or in an amount that is not permissible for a national bank.

"(2) EXCEPTION.—Notwithstanding paragraph (1) or any limitation or prohibition otherwise imposed by any provision of law exclusively relating to banks, an insured State bank in a State which permits investments described in paragraph (1) as of September 30, 1991, may invest not more than 10 percent of the bank's total assets in—

"(A) common or preferred stock listed on a national securities exchange (except that not more than 0.5 percent of the bank's total assets may be invested in common or preferred stock of any 1 company); or

"(B) shares of an investment company registered under the Investment Company Act of 1940.

"(3) NOTICE OF PARAGRAPH (2) ACTIVITIES.—An insured State bank may only engage in any investment activity pursuant to paragraph (2) if—

"(A) the insured State bank has filed a 1-time notice with the Corporation of the bank's intent to acquire or retain such investments; and

"(B) pursuant to such notice, the Corporation has not determined, within 60 days of receiving such notice, that acquiring or retaining such investments poses a significant risk to the Bank Insurance Fund.

"(5) DIVESTITURE OF INVESTMENTS.—The Corporation may require divestiture by an insured State bank of any investment permitted under this subsection if the Corporation determines that such investment will have an adverse effect on the safety and soundness of such bank.

"(6) FDIC FINDINGS AND ACTION REGARDING RISK.—

"(A) FINDING.—Before the end of the 1-year period beginning on the date of enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, the Corporation shall make a finding whether such equity investments by insured State banks pose or may pose any significant risk to the insurance fund of which such banks are members.

"(B) ACTIONS.—

"(i) IN GENERAL.—The Corporation shall, pursuant to any finding made under subparagraph (A), take appropriate actions to address any risk that exists or may subsequently develop with respect to insured banks described in paragraph (1).

"(ii) AUTHORIZED ACTIONS.—Actions the Corporation may take under this subparagraph include requiring the modification, suspension, or termination of such equity investments conducted by any insured State bank if the Corporation finds that the activities pose a significant risk to any insured bank described in paragraph (1) or to the insurance fund of which such bank is a member.

"(g) DETERMINATIONS.—The Corporation shall make determinations under this section by regulation or order.

"(h) ACTIVITY DEFINED.—For purposes of this section, the term 'activity' includes acquiring or retaining any investment.

"(i) OTHER AUTHORITY NOT AFFECTED.—This section shall not be construed as limiting the authority of any appropriate Federal banking agency or any State supervisory authority to impose more stringent restrictions.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The 13th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 330) is amended by striking ": *Provided, however,* That no Federal reserve bank" and inserting ", except that the Board of Governors of the Federal Reserve System may limit the activities of State member banks and subsidiaries of State member banks in a manner consistent with section 24 of the Federal Deposit Insurance Act. No Federal reserve bank".

SEC. 504. RESTRICTIONS ON REAL ESTATE LENDING.

(a) RESTRICTIONS ON REAL ESTATE LENDING ESTABLISHED.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 39 (as added by section 229 of this Act) the following new section:

"SEC. 40. REAL ESTATE LENDING.

"(a) UNIFORM REGULATIONS.—The appropriate Federal banking agencies shall jointly adopt uniform regulations prescribing standards for loans or extensions of credit by insured depository institutions that are—

"(1) secured by liens on, interests in, or liens on interests in unimproved real estate, or

"(2) made for the purpose of financing the construction of a building or buildings or other improvements to real estate.

"(b) STANDARDS.—

"(1) CRITERIA.—In prescribing standards pursuant to subsection (a) for loans or extensions of credit described in such subsection, the agencies shall consider—

"(A) the risk presented to the Bank Insurance Fund or the Savings Association Insurance Fund, as the case may be, by such loans or extensions of credit;

"(B) the safe and sound operation of insured depository institutions; and

"(C) the availability of credit.

"(2) VARIATIONS PERMITTED.—In prescribing the standards referred to in paragraph (1), the agencies may jointly provide for differentiations among insured depository institutions and among types of loans to such extent and in such manner as may be—

"(A) required by Federal law;

"(B) warranted on the basis of risk to the deposit insurance funds; or

"(C) warranted on the basis of the safety and soundness of the institutions.".

(b) EFFECTIVE DATE.—The regulations prescribed pursuant to the amendment made by subsection (a) shall take effect before the end of the 12-month period beginning on the date of the enactment of this Act.

SEC. 505. CAPITAL STANDARDS AND INTEREST RATE RISK.

(a) IN GENERAL.—The appropriate Federal banking agencies shall develop a system to monitor interest rate risk and to adjust risk-based capital standards to reflect interest rate risk.

(b) IMPLEMENTING REGULATIONS.—In order to implement the system required under subsection (a), the appropriate Federal banking agencies shall prescribe regulations in final form before the end of the 1-year period beginning on the date of the enactment of this Act. Such regulations shall take effect before the end of the 2-year period beginning on such date of enactment.

SEC. 506. TRANSITION RULE.

Section 5(t)(5)(D) of the Home Owners Loan Act (12 U.S.C. 1464(t)(5)(D)) is amended by striking "for a national bank," and inserting "for a national bank or if such impermissible activities were commenced after April 12, 1989, and before August 9, 1989, by a savings association with assets of less than $400,000,000 and were made in residential real estate or land held for development as residential real estate,".

SEC. 507. FDIC BACK-UP ENFORCEMENT AUTHORITY.

Section 8(t) of the Federal Deposit Insurance Act (12 U.S.C. 1818(t)) is amended to read as follows:

"(t) AUTHORITY OF BOARD TO TAKE ENFORCEMENT ACTION AGAINST INSURED DEPOSITORY INSTITUTIONS AND INSTITUTION-AFFILIATED PARTIES.—

"(1) AUTHORITY TO RECOMMEND THAT APPROPRIATE FEDERAL BANKING AGENCY TAKE ENFORCEMENT ACTION.—The Corporation, based on an examination of an insured depository institution by the Corporation or the appropriate Federal banking agency or on other information, may recommend that the appropriate Federal banking agency take any enforcement action authorized under this section or section 7(j) or 18(j) with respect to any insured depository institution or any institution-affiliated party.

"(2) AUTHORITY OF BOARD TO DIRECT ENFORCEMENT ACTION BE TAKEN IF APPROPRIATE FEDERAL BANKING AGENCY FAILS TO FOLLOW RECOMMENDATION.—

"(A) IN GENERAL.—If the appropriate Federal banking agency fails to take the recommended action, or to provide an acceptable plan for addressing the concerns of the Corporation set forth in the Corporation's recommendation, before the end of the 60-day period beginning on the date of the receipt of the formal recommendation from the Corporation, the Board of Directors may direct the Corporation to take such action if the Board of Directors determines that—

"(i) the insured depository institution is in an unsafe or unsound condition;

"(ii) failure to take the recommended action will result in continuance of unsafe or unsound practices in conducting the business of the insured depository institution; or

"(iii) the violation or threatened violation, or threatened practices or omission, or continuation of practices, or omissions may cause, or is likely to cause, a risk of loss to the appropriate insurance fund, or may prejudice the interests of depositors of the institution.

"(B) ENFORCEMENT POWERS.—In the exercise of any authority under this subsection at the direction of the Board of Directors—

"(i) the Corporation shall have the same powers with respect to any insured depository institution and any subsidiary or affiliate of the institution as the appropriate Federal banking agency has with respect to such institution, subsidiary, or affiliate; and

"(ii) the institution and any subsidiary or affiliate of the institution shall have the same duties and obligations with respect to the Corporation as the institution, subsidiary, or affiliate has with respect to the appropriate Federal banking agency.

"(3) EFFECT OF EXIGENT CIRCUMSTANCES.—

"(A) AUTHORITY TO ACT.—Notwithstanding paragraphs (1) and (2), the Board of Directors may direct the Corporation to exercise the Corporation's authority under this subsection before the end of the 60-day period described in paragraph (2)(A) in exigent circumstances after notifying the appropriate Federal banking agency.

"(B) AGREEMENT ON EXIGENT CIRCUMSTANCES.—The Board of Directors shall, by agreement with the other appropriate Federal banking agencies, establish and publish a description of the exigent circumstances under which the Board of Directors may direct the Corporation to act under this subsection without regard to the 60-day period described in paragraph (2)(A).

"(4) REQUESTS FOR FORMAL ACTIONS AND INVESTIGATIONS.—

"(A) SUBMISSION OF REQUESTS.—Whenever a regional office or regional bank of an appropriate Federal banking agency submits a request for a formal investigation or enforcement action, such regional office or regional bank shall concurrently submit the request to the head of the appropriate Federal banking agency and the Corporation.

"(B) AGENCIES REQUIRED TO REPORT ON REQUESTS.—Each appropriate Federal banking agency shall report semiannually to the Corporation the status or disposition of all such requests, including the reasons for the appropriate Federal banking agency's decision to either approve or deny all such requests.

"(5) NONDELEGATION.—The authority of the Board of Directors to make any determination or to direct the Corporation to take any action under this subsection may not be delegated.".

Subtitle B—Coverage

SEC. 511. DEPOSIT AND PASS-THROUGH INSURANCE.

(a) EXCLUSION OF CERTAIN OBLIGATIONS FROM DEPOSIT INSURANCE COVERAGE.—

(1) IN GENERAL.—Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) is amended by adding at the end the following new paragraph:

"(8) CERTAIN INVESTMENT CONTRACTS NOT TREATED AS INSURED DEPOSITS.—

"(A) IN GENERAL.—A liability of an insured depository institution shall not be treated as an insured deposit if the liability arises under any insured depository institution investment contract between any insured depository institution and any employee benefit plan which expressly permits benefit-responsive withdrawals or transfers.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) BENEFIT-RESPONSIVE WITHDRAWALS OR TRANSFERS.—The term 'benefit-responsive withdrawals or transfers' means any withdrawal or transfer of funds (consisting of any portion of the principal and any interest credited at a rate guaranteed by the insured depository institution investment contract) during the period in which any guaranteed rate is in effect, without substantial penalty or adjustment, to pay benefits provided by the employee benefit plan or to permit a plan participant or beneficiary to redirect the investment of his or her account balance.

"(ii) EMPLOYEE BENEFIT PLAN.—The term 'employee benefit plan'—

"(I) has the meaning given to such term in section 3(3) of the Employee Retirement Income Security Act of 1974; and

"(II) includes any plan described in section 401(d) of the Internal Revenue Code of 1986.".

(2) EXCLUSION OF OBLIGATIONS FROM TREATMENT AS DEPOSITS FOR OTHER PURPOSES.—Section 7(b)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(6)) is amended—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) any liability of the insured depository institution which is not treated as an insured deposit pursuant to section 11(a)(8).".

(b) INSURANCE OF DEPOSITS.—

(1) INSURED AMOUNTS PAYABLE.—Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) (as amended by subsection (a)(1) of this section) is amended by striking "(a)(1)" and all that follows through paragraph (1) and inserting the following:

"(a) DEPOSIT INSURANCE.—

"(1) INSURED AMOUNTS PAYABLE.—

"(A) IN GENERAL.—The Corporation shall insure the deposits of all insured depository institutions as provided in this Act.

"(B) NET AMOUNT OF INSURED DEPOSIT.—The net amount due to any depositor at an insured depository institution shall not exceed $100,000 as determined in accordance with subparagraphs (C) and (D).

"(C) AGGREGATION OF DEPOSITS.—For the purpose of determining the net amount due to any depositor under subparagraph (B), the Corporation shall aggregate the amounts of all deposits in the insured depository institution which are maintained by a depositor in the same capacity and the same right for the benefit of the depositor either in the name of the depositor or in the name of any other person, other than any amount in a trust fund described in section 7(i)(1).

"(D) COVERAGE ON PRO RATA OR 'PASS-THROUGH' BASIS.—

"(i) IN GENERAL.—Except as provided in clause (ii), for the purpose of determining the amount of insurance due under subparagraph (B), the Corporation shall provide deposit insurance coverage with respect to deposits accepted by any insured depository institution on a pro rata or 'pass-through' basis to a participant in or beneficiary of an employee benefit plan (as defined in section 11(a)(8)(B)(ii)), including any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

"(ii) EXCEPTION.—After the end of the 1-year period beginning on the date of the enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, the Corporation shall not provide insurance coverage on a pro rata or 'pass-through' basis pursuant to clause (i) with respect to deposits accepted by any insured depository institution which, at the time such deposits are accepted, may not accept brokered deposits under section 29.

"(iii) COVERAGE UNDER CERTAIN CIRCUMSTANCES.—Clause (ii) shall not apply with respect to any deposit accepted by an insured depository institution described in such clause if, at the time the deposit is accepted—

"(I) the institution meets each applicable capital standard; and

"(II) the depositor receives a written statement from the institution that such deposits at such institution are eligible for insurance coverage on a pro rata or 'pass-through' basis.".

(2) CERTAIN RETIREMENT ACCOUNTS.—Section 11(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(3)) is amended to read as follows:

"(3) CERTAIN RETIREMENT ACCOUNTS.—

"(A) IN GENERAL.—Notwithstanding any limitation in this Act relating to the amount of deposit insurance available for the account of any 1 depositor, deposits in an insured depository institution made in connection with—

"(i) any individual retirement account described in section 408(a) of the Internal Revenue Code of 1986;

"(ii) subject to the exception contained in paragraph (1)(D)(ii), any eligible deferred compensation plan described in section 457 of such Code; and

"(iii) any individual account plan defined in section 3(34) of the Employee Retirement Income Security Act, and any plan described in section 401(d) of the Internal Revenue Code of 1986, to the extent that participants and beneficiaries under such plan have the right to direct the investment of assets held in individual accounts maintained on their behalf by the plan,

shall be aggregated and insured in an amount not to exceed $100,000 per participant per insured depository institution.

"(B) AMOUNTS TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), the amount aggregated for insurance coverage under this paragraph shall consist of the present vested and ascertainable interest of each participant under the plan, excluding any remainder interest created by, or as a result of, the plan.".

(3) CERTAIN TRUST FUNDS.—Section 7(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(i)) is amended to read as follows:

"(i) INSURANCE OF TRUST FUNDS.—

"(1) IN GENERAL.—Trust funds held on deposit by an insured depository institution in a fiduciary capacity as trustee pursuant to any irrevocable trust established pursuant to any statute or written trust agreement shall be insured in an amount not to exceed $100,000 for each trust estate.

"(2) INTERBANK DEPOSITS.—Trust funds described in paragraph (1) which are deposited by the fiduciary depository institution in another insured depository institution shall be similarly insured to the fiduciary depository institution according to the trust estates represented.

"(3) REGULATIONS.—The Board of Directors may prescribe such regulations as may be necessary to clarify the insurance coverage under this subsection and to prescribe the manner of reporting and depositing such trust funds.".

(4) EXPANDED COVERAGE BY REGULATION.—

(A) REVIEW OF COVERAGE.—For the purpose of prescribing regulations, during the 1-year period beginning on the date of the enactment of this Act, the Board of Directors shall review the capacities and rights in which deposit accounts are maintained and for which deposit insurance coverage is provided by the Corporation.

(B) REGULATIONS.— After the end of the 1-year period referred to in subparagraph (A), the Board of Directors may prescribe regulations that provide for separate insurance coverage for the different capacities and rights in which deposit accounts are maintained if a determination is made by the Board of Directors that such separate insurance coverage is consistent with—

(i) the purpose of protecting small depositors and limiting the undue expansion of deposit insurance coverage; and

(ii) the insurance provisions of the Federal Deposit Insurance Act.

(C) DELAYED EFFECTIVE DATE FOR REGULATIONS.—No regulation prescribed under subparagraph (B) may take effect before the 2-year period beginning on the date of the enactment of this Act.

(5) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Section 3(m) of the Federal Deposit Insurance Act (12 U.S.C. 1813(m)) is amended by striking "(m)(1)" and all that follows through paragraph (1) and inserting the following:

"(m) INSURED DEPOSIT.—

"(1) IN GENERAL.—Subject to paragraph (2), the term 'insured deposit' means the net amount due to any depositor for deposits in an insured depository institution as determined under sections 7(i) and 11(a).".

(B) Section 11(a)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(2)(A)) is amended by striking "his deposit shall be insured" and inserting "such depositor shall, for the purpose of determining the amount of insured deposits under this subsection, be deemed a depositor in such custodial capacity separate and distinct from any other officer, employee, or agent of the United States or any public unit referred to in clause (ii), (iii), (iv), or (v) and the deposit of any such depositor shall be insured in an amount not to exceed $100,000 per account".

(C) The 2d subparagraph of section 11(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(2)) is amended by striking "(b)" and inserting "(B)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) and paragraphs (2) and (3) of subsection (b) shall take effect at the end of the 2-year period beginning on the date of the enactment of this Act.

(2) APPLICATION TO TIME DEPOSITS.—

(A) CERTAIN DEPOSITS EXCLUDED.—Except with respect to the amendment referred to in paragraph (3), the amendments made by subsections (a) and (b) shall not apply to any time deposit which—

(i) was made before the date of enactment of this Act; and

(ii) matures after the end of the 2-year period referred to in paragraph (1).

(B) ROLLOVERS AND RENEWALS TREATED AS NEW DEPOSIT.—Any renewal or rollover of a time deposit described in subparagraph (A) after the date of the enactment of this Act shall be treated as a new deposit which is not described in such subparagraph.

(3) EFFECTIVE DATE FOR AMENDMENT RELATING TO CERTAIN EMPLOYEE PLANS.—

(A) Section 11(a)(1)(B) of the Federal Deposit Insurance Act (as amended by subsection (b)(1) of this section) shall take effect on the earlier of—

(i) the date of the enactment of this Act; or

(ii) January 1, 1992.

(B) Section 11(a)(3)(A) of the Federal Deposit Insurance Act (as amended by subsection (b)(2) of this section) shall take effect on the earlier of the dates described in clauses (i) and (ii) of subparagraph (A) with respect to plans described in clause (ii) of such section.

(d) INFORMATIONAL STUDY.—

(1) IN GENERAL.—The Federal Deposit Insurance Corporation, in conjunction with such consultants and technical experts as the Corporation determines to be appropriate, shall conduct a study of the cost and feasibility of tracking the insured and uninsured deposits of any individual and the exposure, under any Act of Congress or any regulation of any appropriate Federal banking agency, of the Federal Government with respect to all insured depository institutions.

(2) ANALYSIS OF COSTS AND BENEFITS.—The study under paragraph (1) shall include detailed, technical analysis of the costs and benefits associated with the least expensive way to implement the system.

(3) SPECIFIC FACTORS TO BE STUDIED.—As part of the study under paragraph (1), the Corporation shall investigate, review, and evaluate—

(A) the data systems that would be required to track deposits in all insured depository institutions;

(B) the reporting burdens of such tracking on individual depository institutions;

(C) the systems which exist or which would be required to be developed to aggregate such data on an accurate basis;

(D) the implications such tracking would have for individual privacy; and

(E) the manner in which systems would be administered and enforced.

(4) FEDERAL RESERVE BOARD SURVEY.—As part of the informational study required under paragraph (1), the Board of Governors of the Federal Reserve System shall conduct, in conjunction with other Federal departments and agencies as necessary, a survey of the ownership of deposits held by individuals including the dollar amount of deposits held, the type of deposit accounts held, and the type of financial institutions in which the deposit accounts are held.

(5) ANALYSIS BY FDIC.—The results of the survey under paragraph (4) shall be provided to the Federal Deposit Insurance Corporation before the end of the 1-year period beginning on the date of the enactment of this Act for analysis and inclusion in the informational study.

(6) REPORT TO CONGRESS.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Federal Deposit Insurance Corporation shall submit to the Congress a report containing a detailed statement of findings made and conclusions drawn from the study conducted under this section, including such recommendations for administrative and legislative action as the Corporation determines to be appropriate.

SEC. 512. FOREIGN DEPOSITS.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 40 (as added by section 504 of this title) the following new section:

"SEC. 41. PAYMENTS ON FOREIGN DEPOSITS PROHIBITED.

"Notwithstanding any other provision of law, the Corporation, the Board of Governors of the Federal Reserve System, the Resolution Trust Corporation, any other agency, department, and instrumentality of the United States, and any corporation owned or controlled by the United States may not, directly or indirectly, make any payment or provide any assistance, guarantee, or transfer under this Act or any other provision of law in connection with any insured depository institution which would have the direct or indirect effect of satisfying, in whole or in part, any claim against the institution for obligations of the institution which would constitute deposits as defined in section 3(l) but for subparagraphs (A) and (B) of section 3(l)(5).".

SEC. 513. PENALTY FOR FALSE ASSESSMENT REPORTS.

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 7(c) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c)) is amended by adding at the end the following new paragraph:

"(5) PENALTY FOR FAILURE TO MAKE ACCURATE CERTIFIED STATEMENT.—

"(A) FIRST TIER.—Any insured depository institution which—

"(i) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to submit the certified statement under paragraph (1) or (2) within the period of time required under paragraph (1) or (2) or submits a false or misleading certified statement; or

"(ii) submits the statement at a time which is minimally after the time required in such paragraph,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false and misleading information is not corrected. The institution shall have the burden of proving that an error was inadvertent or that a statement was inadvertently submitted late.

"(B) SECOND TIER.—Any insured depository institution which fails to submit the certified statement under paragraph (1) or (2) within the period of time required under paragraph (1) or (2) or submits a false or misleading certified statement in a manner not described in subparagraph (A) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false and misleading information is not corrected.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), if any insured depository institution knowingly or with reckless disregard for the accuracy of any certified statement described in paragraph (1) or (2) submits a false or misleading certified statement under paragraph (1) or (2), the Corporation may assess a penalty of not more than $1,000,000 or not more than 1 percent of the total assets of the institution, whichever is less, per day for each day during which the failure continues or the false or misleading information in such statement is not corrected.

"(D) ASSESSMENT PROCEDURE.—Any penalty imposed under this paragraph shall be assessed and collected by the Corporation in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.

"(E) HEARING.—Any insured depository institution against which any penalty is assessed under this paragraph shall be afforded an agency hearing if the institution submits a request for such hearing within 20 days after the issuance of the notice of the assessment. Section 8(h) shall apply to any proceeding under this subparagraph.".

(b) INSURED CREDIT UNIONS.—Section 202(d)(2) of the Federal Credit Union Act (12 U.S.C. 1782(d)(2)) is amended to read as follows:

"(2) PENALTY FOR FAILURE TO MAKE ACCURATE CERTIFIED STATEMENT OR TO PAY DEPOSIT OR PREMIUM.—

"(A) FIRST TIER.—Any insured credit union which—

"(i) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to submit any certified statement under subsection (b)(1) within the period of time required or submits a false or misleading certified statement under such subsection; or

"(ii) submits the statement at a time which is minimally after the time required, shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false and misleading information is not corrected. The insured credit union shall have the burden of proving that an error was inadvertent or that a statement was inadvertently submitted late.

"(B) SECOND TIER.—Any insured credit union which—

"(i) fails to submit any certified statement under subsection (b)(1) within the period of time required or submits a false or misleading certified statement in a manner not described in subparagraph (A); or

"(ii) fails or refuses to pay any deposit or premium for insurance required under this title,

shall be subject to a penalty of not more than $20,000 for each day during which such failure continues, such false and misleading information is not corrected, or such deposit or premium is not paid.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), if any insured depository institution knowingly or with reckless disregard for the accuracy of any certified statement under subsection (b)(1) or submits a false or misleading certified statement under such subsection, the Corporation may assess a penalty of not more than $1,000,000 or not more than 1 percent of the total assets of the institution, whichever is less, per day for each day during which the failure continues or the false or misleading information in such statement is not corrected.

"(D) ASSESSMENT PROCEDURE.—Any penalty imposed under this paragraph shall be assessed and collected by the Corporation in the manner provided in section 206(k)(2) (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.

"(E) HEARING.—Any insured depository institution against which any penalty is assessed under this paragraph shall be afforded an agency hearing if the institution submits a request for such hearing within 20 days after the issuance of the notice of the assessment. Section 206(j) shall apply to any proceeding under this subparagraph.

"(F) SPECIAL RULE FOR DISPUTED PAYMENTS.—No penalty may be assessed for the failure of any insured credit union to pay any deposit or premium for insurance if—

"(i) the failure is due to a dispute between the credit union and the Board over the amount of the deposit or premium which is due from the credit union; and

"(ii) the credit union deposits security satisfactory to the Board for payment of the deposit or insurance premium upon final determination of the dispute.".

Subtitle C—Demonstration Project and Studies

SEC. 521. FEASIBILITY STUDY ON AUTHORIZING INSURED AND UNINSURED DEPOSIT ACCOUNTS.

(a) STUDY REQUIRED.—The Federal Deposit Insurance Corporation shall study the feasibility of authorizing insured depository institutions to offer both insured and uninsured deposit accounts to customers.

(b) FACTORS TO CONSIDER.—In conducting the study required under subsection (a), the Corporation shall consider the following factors:

(1) The risk a 2-window deposit system would pose to the deposit insurance system.

(2) The disclosure standards which would be necessary to prevent customer confusion over the insured status of deposits and fraudulent or misleading practices with respect to such insured status.

(3) The extent to which accounting standards would have to be revised or changed.

(4) The manner in which a 2-window deposit plan could be implemented with the least disruption to the stability of, and the confidence of consumers in, the banking system.

(c) REPORT.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Corporation shall submit a report to the Congress containing the Corporation's findings and conclusions with respect to the study under subsection (a) and any recommendations for legislative or administrative action the Corporation may determine to be appropriate.

SEC. 522. PRIVATE REINSURANCE STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Board of Directors of the Federal Deposit Insurance Corporation, in consultation with the Secretary of the Treasury and individuals from the private sector with expertise in private insurance, private reinsurance, depository institutions, or economics, shall conduct a study of the feasibility of establishing a private reinsurance system.

(2) PROJECT.—The study conducted under this subsection shall include a demonstration project consisting of a simulation, by a sample of private reinsurers and insured depository institutions, of the activities required for a private reinsurance system, including—

(A) establishment of a pricing structure for risk-based premiums;

(B) formulation of insurance or reinsurance contracts; and

(C) identification and collection of information necessary to evaluate and monitor the risks in insured depository institutions.

(3) ACTUAL REINSURANCE TRANSACTIONS.—The Federal Deposit Insurance Corporation may engage in actual reinsurance transactions as part of a demonstration project conducted under paragraph (2).

(b) REPORT.—

(1) IN GENERAL.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Federal Deposit Insurance Corporation shall submit to the Congress a report on the study conducted under this section.

(2) CONTENTS.—The report under this subsection shall include—

(A) an analysis and review of the project conducted under subsection (a)(2);

(B) conclusions regarding the feasibility of a private reinsurance system;

(C) recommendations regarding whether—

(i) such a system should be restricted to depository institutions over a certain asset size;

(ii) similar systems are feasible for depository institutions or groups of depository institutions of a lesser asset size; and

(iii) public policy goals can be satisfied by such systems; and

(D) recommendations for administrative and legislative action that may be necessary to establish such systems.

Subtitle D—Credit Unions

SEC. 531. LIQUIDATIONS OF FEDERALLY INSURED STATE CREDIT UNIONS.

(a) AUTHORITY TO LIQUIDATE.—Section 207(a)(1) of the Federal Credit Union Act (12 U.S.C. 1787(a)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (D); and

(2) by inserting after subparagraph (A) the following new subparagraphs:

"(B) APPOINTMENT OF THE BOARD BY THE BOARD.—Notwithstanding any other provision of this Act, any other Federal law, or the law or constitution of any State, the Board may appoint itself as the liquidating agent of any State credit union insured under this title, and close such credit union, if the Board determines that the credit union is insolvent or bankrupt.

"(C) NOTICE AND APPROVAL OF STATE OFFICIAL.—

"(i) IN GENERAL.—The authority conferred by subparagraph (B) with respect to any State credit union shall be exercised only with the written approval of the State official having jurisdiction over such credit union that the grounds specified for such exercise exist.

"(ii) EXCEPTION.—If the approval of the State official having jurisdiction over any State credit union referred to in clause (i) has not been received within 30 days of receipt of notice by the State that the Board has determined such grounds exist, and the Board has responded in writing to the State's written reasons, if any, for withholding approval, then the Board may proceed without State approval only by unanimous vote of the Board.".

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (D) of section 207(a)(1) of the Federal Credit Union Act (12 U.S.C. 1787(a)(1)), as so redesignated by subsection (a) of this section, is amended in the first sentence by striking "(b)" and inserting "(j)".

(2) Section 207(a)(1)(A) of the Federal Credit Union Act (12 U.S.C. 1787(a)(1)(A)) is amended by striking "himself" and inserting "itself".

TITLE VI—MISCELLANEOUS PROVISIONS

Subtitle A—Payment System Risk Reduction

SEC. 601. FINDINGS AND PURPOSE.

The Congress finds that—

(1) many financial institutions engage daily in thousands of transactions with other financial institutions directly and through clearing organizations;

(2) the efficient processing of such transactions is essential to a smoothly functioning economy;

(3) such transactions can be processed most efficiently if, consistent with applicable contractual terms, obligations among financial institutions are netted;

(4) such netting procedures would reduce the systemic risk within the banking system and financial markets; and

(5) the effectiveness of such netting procedures can be assured only if they are recognized as valid and legally binding in the event of the closing of a financial institution participating in the netting procedures.

SEC. 602. DEFINITIONS.

For purposes of this subtitle—

(1) BROKER OR DEALER.—The term 'broker or dealer' means any company that is registered or licensed under Federal or State law to engage in the business of brokering, underwriting, or dealing in securities in the United States.

(2) CLEARING ORGANIZATION.—The term "clearing organization" means a clearinghouse, clearing association, clearing corporation, or similar organization—

(A) that provides clearing, netting, or settlement services for its members and—

(i) in which all members other than the clearing organization itself are financial institutions or other clearing organizations; or

(ii) which is registered as a clearing agency under the Securities Exchange Act of 1934; or

(B) that performs clearing functions for a contract market designated pursuant to the Commodity Exchange Act.

(3) COVERED CLEARING OBLIGATION.—The term "covered clearing obligation" means an obligation of a member of a clearing organization to make payment to another member of a clearing organization, subject to a netting contract.

(4) COVERED CONTRACTUAL PAYMENT ENTITLEMENT.—The term "covered contractual payment entitlement" means—

(A) an entitlement of a financial institution to receive a payment, subject to a netting contract from another financial institution; and

(B) an entitlement of a member of a clearing organization to receive payment, subject to a netting contract, from another member of a clearing organization of a covered clearing obligation.

(5) COVERED CONTRACTUAL PAYMENT OBLIGATION.—The term "covered contractual payment obligation" means—

(A) an obligation of a financial institution to make payment, subject to a netting contract to another financial institution; and

(B) a covered clearing obligation.

(6) DEPOSITORY INSTITUTION.—The term "depository institution" means—

(A) a depository institution as defined in section 19(b)(1)(A) of the Federal Reserve Act (other than clause (vii));

(B) a branch or agency as defined in section 1(b) of the International Banking Act of 1978;

(C) a corporation chartered under section 25(a) of the Federal Reserve Act; or

(D) a corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System under section 25 of the Federal Reserve Act.

(7) FAILED FINANCIAL INSTITUTION.—The term "failed financial institution" means a financial institution that—

(A) fails to satisfy a covered contractual payment obligation when due;

(B) has commenced or had commenced against it insolvency, liquidation, reorganization, receivership (including the appointment of a receiver), conservatorship, or similar proceedings; or

(C) has generally ceased to meet its obligations when due.

(8) FAILED MEMBER.—The term "failed member" means any member that—

(A) fails to satisfy a covered clearing obligation when due,

(B) has commenced or had commenced against it insolvency, liquidation, reorganization, receivership (including the appointment of a receiver), conservatorship, or similar proceedings, or

(C) has generally ceased to meet its obligations when due.

(9) FINANCIAL INSTITUTION.—The term "financial institution" means a broker or dealer, a depository institution, a futures commission merchant, or any other institution as determined by the Board of Governors of the Federal Reserve System.

(10) FUTURES COMMISSION MERCHANT.—The term 'futures commission merchant' means a company that is registered or licensed under Federal law to engage in the business of selling futures and options in commodities.

(11) MEMBER.—The term "member" means a member of or participant in a clearing organization, and includes the clearing organization.

(12) NET ENTITLEMENT.—The term "net entitlement" means the amount by which the covered contractual payment entitlements of a financial institution or member exceeds the covered contractual payment obligations of the institution or member after netting under a netting contract.

(13) NET OBLIGATION.—The term "net obligation" means the amount by which the covered contractual payment obligations of a financial institution or member exceeds the covered contractual payment entitlements of the institution or member after netting under a netting contract.

(14) NETTING CONTRACT.—

(A) IN GENERAL.—The term "netting contract"—

(i) means a contract or agreement between 2 or more financial institutions or members, that—

(I) is governed by the laws of the United States, any State, or any political subdivision of any State, and

(II) provides for netting present or future payment obligations or payment entitlements (including liquidation or close-out values relating to the obligations or entitlements) among the parties to the agreement; and

(ii) includes the rules of a clearing organization.

(B) INVALID CONTRACTS NOT INCLUDED.—The term "netting contract" does not include any contract or agreement that is invalid under or precluded by Federal commodities law.

SEC. 603. BILATERAL NETTING.

(a) GENERAL RULE.—Notwithstanding any other provision of law, the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract.

(b) LIMITATION ON OBLIGATION TO MAKE PAYMENT.—The only obligation, if any, of a financial institution to make payment with respect to covered contractual payment obligations to another financial institution shall be equal to its net obligation to such other financial institution, and no such obligation shall exist if there is no net obligation.

(c) LIMITATION ON RIGHT TO RECEIVE PAYMENT.—The only right, if any, of a financial institution to receive payments with respect to covered contractual payment entitlements from another financial institution shall be equal to its net entitlement with respect to such other financial institution, and no such right shall exist if there is no net entitlement.

(d) PAYMENT OF NET ENTITLEMENT OF FAILED FINANCIAL INSTITUTION.—The net entitlement of any failed financial institution, if any, shall be paid to the failed financial institution in accordance with, and subject to the conditions of, the applicable netting contract.

(e) EFFECTIVENESS NOTWITHSTANDING STATUS AS FINANCIAL INSTITUTION.—This section shall be given effect notwithstanding that a financial institution is a failed financial institution.

SEC. 604. CLEARING ORGANIZATION NETTING.

(a) GENERAL NETTING RULE.—Notwithstanding any other provision of law, the covered contractual payment obligations and covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract.

(b) LIMITATION OF OBLIGATION TO MAKE PAYMENT.—The only obligation, if any, of a member of a clearing organization to make payment with respect to covered contractual payment obligations arising under a single netting contract to any other member of a clearing organization shall be equal to its net obligation arising under that netting contract, and no such obligation shall exist if there is no net obligation.

(c) LIMITATION ON RIGHT TO RECEIVE PAYMENT.—The only right, if any, of a member of a clearing organization to receive payment with respect to a covered contractual payment entitlement arising under a single netting contract from other members of a clearing organization shall be equal to its net entitlement arising under that netting contract, and no such right shall exist if there is no net entitlement.

(d) ENTITLEMENT OF FAILED MEMBERS.—The net entitlement, if any, of any failed member of a clearing organization shall be paid to the failed member in accordance with, and subject to the conditions of, the applicable netting contract.

(e) OBLIGATIONS OF FAILED MEMBERS.—The net obligation, if any, of any failed member of a clearing organization shall be determined in accordance with, and subject to the conditions of, the applicable netting contract.

(f) LIMITATION ON CLAIMS FOR ENTITLEMENT.—A failed member of a clearing organization shall have no recognizable claim against any member of a clearing organization for any amount based on such covered contractual payment entitlements other than its net entitlement.

(g) EFFECTIVENESS NOTWITHSTANDING STATUS AS MEMBER.—This section shall be given effect notwithstanding that a member is a failed member.

SEC. 605. PREEMPTION.

No stay, injunction, avoidance, moratorium, or similar proceeding or order, whether issued or granted by a court, administrative agency, or otherwise, shall limit or delay application of otherwise enforceable netting contracts in accordance with sections 603 and 604.

SEC. 606. RELATIONSHIP TO OTHER PAYMENTS SYSTEMS.

This subtitle shall have no effect by implication or otherwise on the validity or legal enforceability of a netting arrangement of any payment system which is not subject to this subtitle.

Subtitle B—Right to Financial Privacy Act of 1978

SEC. 611. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978.

The Right to Financial Privacy Act of 1978 is amended—

(1) in section 1112(f)(2) (12 U.S.C. 3412(f)(2))—

(A) by inserting "for civil actions under section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, or for forfeiture under sections 981 or 982 of title 18, United States Code" after "purposes"; and

(B) by adding at the end the following new sentence: "No agency or department so transferring such records shall be deemed to have waived any privilege applicable to those records under law.";

(2) in section 1113(h)(1)(A) (12 U.S.C. 3413(h)(1)(A)), by striking "the financial institution in possession of such records" and inserting "a financial institution (whether or not such proceeding, investigation, examination, or inspection is also directed at a customer)";

(3) in section 1113(h)(4) (12 U.S.C. 3413(h)(4)) by striking "the financial institution in possession of such records" and inserting "a financial institution (whether or not such proceeding, investigation, examination, or inspection is also directed at a customer)"; and

(4) in section 1113(l) (12 U.S.C. 3413(l)), by adding after paragraph (2) the following new sentence:

"No supervisory agency which transfers any such record under this subsection shall be deemed to have waived any privilege applicable to that record under law.".

Subtitle C—Final Settlement Payment Procedure

SEC. 621. FINAL SETTLEMENT PAYMENT PROCEDURE.

Section 11(d)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended to read as follows:

"(4) RULEMAKING AUTHORITY RELATING TO DETERMINATION OF CLAIMS.—

"(A) IN GENERAL.—The Corporation may prescribe regulations regarding the allowance or disallowance of claims by the receiver and providing for administrative determinations of claims and review of such determination.

"(B) FINAL SETTLEMENT PAYMENT PROCEDURE.—

"(i) IN GENERAL.—In the handling of receiverships of insured depository institutions, to maintain essential liquidity and to prevent financial disruption, the Corporation may, after the declaration of an institution's insolvency, settle all uninsured and unsecured claims on the receivership with a final settlement payment which shall constitute full payment and disposition of the Corporation's obligations to such claimants.

"(ii) FINAL SETTLEMENT PAYMENT.—For purposes of clause (i), a final settlement payment shall be payment of an amount equal to the product of the final settlement payment rate and the amount of the uninsured and unsecured claim on the receivership; and

"(iii) FINAL SETTLEMENT PAYMENT RATE.—For purposes of clause (ii), the final settlement payment rate shall be a percentage rate reflecting an average of the Corporation's receivership recovery experience, determined by the Corporation in such a way that over such time period as the Corporation may deem appropriate, the Corporation in total will receive no more or less than it would have received in total as a general creditor standing in the place of insured depositors in each specific receivership.

"(iv) CORPORATION AUTHORITY.—The Corporation may undertake such supervisory actions and promulgate such regulations as may be necessary to assure that the requirements of this section can be implemented with respect to each insured depository institution in the event of its insolvency.".

Subtitle D—Miscellaneous Committees, Studies, and Reports

SEC. 631. COMMISSION ON THE THRIFT INDUSTRY.

(a) ESTABLISHMENT OF COMMISSION.—There is hereby established a Commission to be known as the Commission on the Thrift Industry (hereinafter in this section referred to as the "Commission").

(b) MEMBERSHIP OF COMMISSION.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 8 members appointed not later than 90 days after the date of the enactment of this Act. The members shall be appointed as follows:

(A) 2 citizens of the United States, appointed by the President.

(B) 2 citizens of the United States, appointed by the President pro tempore of the Senate upon the recommendation of the majority leader of the Senate.

(C) 1 citizen of the United States, appointed by the President pro tempore of the Senate upon the recommendation of the minority leader of the Senate.

(D) 2 citizens of the United States, appointed by the Speaker of the House of Representatives upon the recommendation of the majority leader of the House of Representatives.

(E) 1 citizen of the United States, appointed by the Speaker of the House of Representatives upon the recommendation of the minority leader of the House of Representatives.

(2) ADDITIONAL QUALIFICATIONS.—

(A) IN GENERAL.—Members of the Commission who are appointed under any subparagraph of paragraph (1) other than subparagraph (A) and are not Members of the Congress shall be appointed from among individuals who are specially qualified to serve on the Commission by virtue of their education, training, or experience.

(B) LIMITATION.—Of the total number of the members of the Commission who are described in subparagraph (A), not more than 2 such members may be, at the time of any such member's appointment and during any such member's service on the Commission—

(i) a director, officer, or employee of any Federal or State agency or instrumentality with supervisory or regulatory authority over any savings association;

(ii) a director, officer, employee, or agent of any trade association which represents any savings association; and

(iii) a director, officer, employee, or agent of any consumer organizations.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) CHAIRPERSON.—The Commission shall elect a Chairperson from among the members of the Commission.

(5) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(6) VOTING.—Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

(7) VACANCIES.—No vacancy on the Commission shall affect the powers of the Commission and any such vacancy shall be filled in the manner in which the original appointment was made.

(8) COMPENSATION AND EXPENSES.—

(A) NO BASIC PAY.—Except as provided in subparagraph (B), members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(B) PER DIEM AND TRAVEL EXPENSES.—Members of the Commission who are appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of substance, as authorized by law for persons serving intermittently in the government service to the extent that funds are available for such expenses.

(9) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the members.

(c) FUNCTIONS OF COMMISSION.—

(1) CONTENTS AND SPECIFIC RECOMMENDATIONS.—The Commission shall conduct an investigation and evaluation of and shall report and make recommendations on the future status of the thrift industry.

(2) ISSUES TO BE CONSIDERED.—Pursuant to its responsibilities under this section the Commission shall consider the following issues:

(A) The continued economic viability of savings associations, including the impact of the regulatory limits on safety and soundness.

(B) Obstacles and issues related to the conversion of savings associations to banks.

(C) The appropriateness and viability of a separate system of depository institutions dedicated to financing housing production.

(D) The appropriate role of community based financial institutions.

(E) The effectiveness and impact of the Qualified Thrift Lender Test.

(F) The status and role of the regional Federal home loan banks.

(G) The commercial ownership of savings associations.

(H) The merger of the Bank Insurance Fund and Savings Association Insurance Fund within the context of savings association conversion to bank status.

(I) The merger of regulators and regulations.

(J) The service provided to low- and moderate-income consumers and neighborhoods.

(K) The impact on the construction and sale of affordable housing.

(3) FINAL REPORT.—

(A) REPORT REQUIRED.—Not later than the end of the 2-year period beginning on the date of the enactment of this Act, the Commission shall submit to the President, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing and Urban Affairs of the Senate, a final report which contains a detailed statement of the findings and conclusions of the Commission, including such recommendations for administrative and legislative action as the Commission determines to be appropriate.

(B) MAJORITY VOTE.—A recommendation may be made by the Commission to the President and to the Congress only if it is adopted by a majority vote of the members of the Commission.

(C) ADDITIONAL, DISSENTING, AND SUPPLEMENTAL VIEWS.—The report required under subparagraph (A) shall contain any additional, dissenting, or supplemental views of any member of the Commission.

(d) POWERS OF COMMISSION.—

(1) HEARINGS.—The Commission may hold such hearings and sit and act at such times and places as the Commission may find advisable.

(2) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of operations, organizations, and personnel.

(3) ASSISTANCE FROM FEDERAL AGENCIES.—

(A) INFORMATION.—The Commission may request from the head of any Federal agency or instrumentality such information as the Commission may require for the purpose of this section. Each such agency or instrumentality shall furnish such information to the Commission, upon request made by the Chairperson of the Commission.

(B) ADMINISTRATIVE SUPPORT SERVICES AND PERSONNEL.—Upon request of the Chairperson of the Commission, the head of any Federal agency or instrumentality shall, to the extent possible and subject to the discretion of such head—

(i) make any of the facilities and services of such agency or instrumentality available to the Commission; and

(ii) detail any of the personnel of such agency or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this section, except that any expenses of the Commission incurred under this clause shall be subject to the limitation on total expenses set forth in subsection (e)(2).

(4) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(5) CONTRACTING.—The Commission may, to such extent and in such amounts as provided in advance in appropriation Acts, enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this section, subject to the limitation on total expenses set forth in subsection (e)(2).

(6) STAFF.—

(A) IN GENERAL.—Subject to such rules and regulations as may be adopted by the Commission and the limitation on total expenses set forth in subsection (e)(2), the Chairperson of the Commission may appoint, terminate, and fix the compensation of an executive director and such additional staff as the Chairperson deems advisable to assist the Commission.

(B) PAY RATES.—Individuals appointed under subparagraph (A) may be paid at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(C) CERTAIN PROVISIONS OF TITLE 5, UNITED STATES CODE, NOT APPLICABLE.—Appointments may be made under subparagraph (A) without regard to—

(i) provisions of title 5, United States Code, concerning appointments in the competitive service, and

(ii) provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law relating to number, classification, and General Schedule rates.

(7) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee under the Federal Advisory Committee Act.

(e) EXPENSES OF COMMISSION.—

(1) IN GENERAL.—Any expense of the Commission shall be paid from such funds as may be available to the Secretary of the Treasury.

(2) LIMITATION.—The total expenses of the Commission shall not exceed $500,000.

(3) GAO AUDIT.—Prior to the termination of the Commission pursuant to subsection (f), the Comptroller General of the United States shall conduct an audit of the financial books and record of the Commission to determine that the limitation on expenses under paragraph (2) has not been exceeded, and shall include its determination in an opinion to be included in the report of the Commission.

(f) TERMINATION OF COMMISSION.—The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits the report required under subsection (c)(3).

SEC. 632. BANK INSURANCE FUND ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is hereby established the Bank Insurance Fund Advisory Committee (hereinafter in this section referred to as the "Committee").

(b) MEMBERSHIP.—The Committee shall consist of 12 members, appointed as follows:

(1) 1 member shall be elected from each administrative district of the Federal Deposit Insurance Corporation (hereinafter in this section referred to as the "Corporation") by banks headquartered in that district from among individuals residing therein who are officers of banks that are Bank Insurance Fund members.

(2) 4 members appointed by the Corporation from among individuals who shall represent the public interest.

(c) VACANCIES.—Any vacancy on the Committee shall be filled in the same manner in which the original appointment was made.

(d) PAY AND EXPENSES.—Members of the Committee shall serve without pay, but each member shall be reimbursed, in such manner as the Corporation shall prescribe by regulation, for expenses incurred in connection with attendance of such members at meetings of the Committee.

(e) TERMS.—Members shall be appointed or elected for terms of 1 year.

(f) AUTHORITY OF THE COMMITTEE.—The Committee may—

(1) select its Chairperson, Vice Chairperson, and Secretary,

(2) adopt methods of procedure,

(3) confer with the Board of Directors on general and specific business conditions and regulatory and other matters affecting banks that are members of the Bank Insurance Fund, and

(4) request information and make recommendations with respect to matters within the jurisdiction of the Corporation and specifically with regard to the sources and uses of funds raised under sections 7 and 14 of the Federal Deposit Insurance Act.

(g) MEETINGS.—The Committee shall meet 4 times each year, and more frequently if requested by the Corporation.

(h) REPORTS.—The Committee shall submit by March 31 of each year a written report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate. Such report shall describe the activities of the Committee for the preceding year and contain such recommendations as the Committee considers appropriate.

(i) PROVISION OF STAFF AND OTHER RESOURCES.—The Corporation shall provide the Committee with the use of such resources, including staff, as the Committee reasonably shall require to carry out its duties, including the preparation and submission of reports to the Congress, under this section.

(j) FEDERAL ADVISORY COMMITTEE ACT DOES NOT APPLY.—The Federal Advisory Committee Act shall not apply to the Committee.

SEC. 633. AMENDMENTS RELATING TO FEDERAL RESERVE BOARD RESERVE REQUIREMENTS.

(a) STUDY ON PAYMENT OF IMPUTED EARNINGS ON STERILE RESERVES TO INSURANCE FUNDS.—The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the National Credit Union Administration shall jointly—

(1) conduct a study on the feasibility of assessing Federal Reserve banks an amount equal to the imputed earnings on reserves held at such bank by insured depository institutions under section 19(b) of the Federal Reserve Act; and

(2) assess the likely beneficial and adverse effects such an assessment would have on the Federal reserve banks, the deposit insurance funds, the insured depository institutions, and the Federal payment system, including a comparison of the effects on each such subject of the study.

(b) REPORT TO CONGRESS.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the National Credit Union Administration shall jointly submit a report to the Congress on the findings and conclusions made with respect to the study under subsection (a), together with any recommendation for any legislative or administrative action which such agencies may determine to be appropriate.

(c) REPORT OF DISSENTING VIEWS.—Any agency described in subsections (a) and (b) which does not concur in the findings, conclusions, or recommendations referred to in subsection (b) or has additional findings, conclusions, or recommendations which were not included in the report may submit a report to the Congress describing—

(1) the reasons why the agency does not concur in the findings, conclusions, or recommendations referred to in subsection (b); and

(2) such additional findings, conclusions, or recommendations.

SEC. 634. DEPOSITORY INSTITUTIONS REFORM ADVISORY COMMITTEE.

(a) PURPOSE.—The purpose of this section is to establish a committee—

(1) to study the current system of regulation and supervision of financial institutions; and

(2) to make recommendations to—

(A) improve the system's ability to ensure the safe and sound operation of depository institutions; and

(B) minimize losses to the deposit insurance funds.

(b) ESTABLISHMENT.—There is hereby established the Depository Institutions Reform Advisory Committee (hereafter in this section referred to as the "Committee").

(c) MEMBERSHIP.—

(1) APPOINTMENT.—Subject to paragraphs (2) and (3), the Committee shall consist of 16 members as follows:

(A) 4 members of the public appointed by the Speaker of the House of Representatives.

(B) 4 members of the public appointed by the Majority Leader of the Senate.

(C) 8 members of the public appointed by the President, 1 of whom shall be designated by the President to be the Chairperson of the Committee.

(2) QUALIFICATION OF MEMBERS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), members of the Committee shall be appointed from among individuals who are citizens of the United States and are specially qualified to serve on the Committee by virtue of their education, training, or experience with the depository institutions industry.

(B) INELIGIBILITY OF INDIVIDUALS HOLDING CERTAIN POSITIONS.—No individual may be appointed to the Committee who—

(i) holds any position to which such individual was appointed by the President; or

(ii) is an institution-affiliated party (as defined in section 3 of the Federal Depository Insurance Act) with respect to any depository institution.

(C) CONSUMERS AND ACADEMICS.—At least 2 of the members appointed under paragraph (1)(A), 2 of the members appointed under paragraph (1)(B), and 2 of the members appointed under paragraph (1)(C) shall be appointed from among individuals who are representatives of consumer organizations or who hold teaching positions at postsecondary educational institutions.

(3) POLITICAL AFFILIATION.—Not more than 8 members of the Committee shall be members of the same political party.

(4) PAY AND EXPENSES.—Members of the Committee shall serve without pay but each member of the Committee shall be reimbursed for expenses incurred in connection with attendance of such members at meetings of the Committee.

(5) MEETINGS.—The Committee shall meet, not less frequently than monthly, at the call of the Chairperson or a majority of the members.

(d) RESOURCES AND STAFF.—The Federal Deposit Insurance Corporation shall provide the Committee with all resources, including staff, offices, or equipment, as the Committee may require to carry out its duties.

(e) INFORMATION.—

(1) IN GENERAL.—The Committee may secure directly from any appropriate Federal banking agency or the Securities and Exchange Commission any information that the Committee deems necessary to enable it to carry out this section.

(2) AVAILABILITY UPON REQUEST OF CHAIRPERSON.—Upon request of the Chairperson of the Committee, the head of an appropriate Federal banking agency or of the Securities and Exchange Commission shall furnish the information to the Committee unless specifically prohibited by law.

(f) CONFLICT-OF-INTEREST AND CONFIDENTIALITY GUIDELINES.—The Committee shall prescribe guidelines to avoid—

(1) conflicts of interest with respect to the disclosure to, and use or release by, members of the Committee of any information relating to any depository or other financial institution or appropriate Federal banking agency; and

(2) the release of nonpublic information relating to depository or other financial institutions to which members may have access.

(g) DEFINITIONS.—For purposes of this section, any term used in this section which is defined in section 3 of the Federal Deposit Insurance Act shall have the meaning given such term in such section, except that the term "depository institution" includes any depository institution holding company (as defined in such section).

(h) DUTIES OF THE COMMITTEE.—

(1) IN GENERAL.—The Committee shall study and include in the report required under subsection (i) recommendations for changes in the regulation and supervision of depository institutions in order to ensure their safety and soundness and to minimize losses to the deposit insurance funds.

(2) EVALUATION OF SPECIFIC FACTORS.—The study shall include an evaluation of the ability of the appropriate Federal banking agencies to—

(A) identify risks associated with new or existing complex activities or products of depository institutions;

(B) identify and monitor transactions between a depository institution and its affiliates, and to assess and control potential risks arising from these transactions;

(C) attract and retain supervisory, examiner, and legal staff with the qualifications, training, and experience necessary to ensure safe and sound depository institutions;

(D) detect and control conflicts of interest arising in depository institutions;

(E) anticipate and rapidly respond to changes in the depository institutions environment; and

(F) improve operations by using private contractors to assist with examinations or other aspects of supervision.

(i) FINAL REPORT.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Committee shall submit to the President, each House of Congress, each appropriate Federal banking agency, and the Securities and Exchange Commission a report containing the findings of the Committee and such recommendations as the Committee may determine to be appropriate, including any specific proposal for legislative or administrative action.

(j) TERMINATION.—The Committee shall cease to exist as of the end of the 60-day period beginning on the date on which the Committee submits the final report under subsection (i).

SEC. 635. REPORT ON GOVERNMENT CHECK CASHING.

Before the end of the 1-year period beginning on the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report on the effects, on insured depository institutions that serve client bases that have a disproportionately high number of persons that receive Federal Government checks, of requiring those institutions to cash those checks.

SEC. 636. PERMANENT AUTHORIZATION OF CREDIT STANDARDS BOARD.

(a) IN GENERAL.—Section 1205 of the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1818 note) is amended by adding at the end the following new subsection:

"(f) FEDERAL ADVISORY COMMITTEE ACT DOES NOT APPLY.—The Federal Advisory Committee Act shall not apply with respect to the Committee.".

Subtitle E—Utilization of Private Sector

SEC. 641. UTILIZATION OF PRIVATE SECTOR.

Section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) is amended by adding at the end the following new subparagraph:

"(K) UTILIZATION OF PRIVATE SECTOR.—In carrying out its responsibilities in the management and disposition of assets from insured depository institutions, as conservator, receiver, or in its corporate capacity, the Corporation shall utilize the services of private persons, including real estate and loan portfolio asset management, property management, auction marketing, and brokerage services, if such services are available in the private sector and the Corporation determines utilization of such services is practicable and efficient.".

SEC. 642. REPORTING.

Section 17 of the Federal Deposit Insurance Act (12 U.S.C. 1827) is amended by adding at the end the following new subsection:

"(h) ADDITIONAL REPORTS.—

"(1) In addition to the reports required under subsections (a), (b), and (c), the Corporation shall submit to Congress not later than April 30 and October 31 of each year, a semiannual report on the activities and efforts of the Corporation for the 6-month period ending on the last day of the month prior to the month in which such report is required to be submitted.

"(2) CONTENTS OF REPORT.—Each semiannual report required under this subsection shall include the following information with respect to the Corporation's assets and liabilities and the assets and liabilities of institutions for which the Corporation serves as a conservator or receiver:

"(A) A statement of the total book value of all assets held or managed by the Corporation at the beginning and end of the reporting period.

"(B) A statement of the total book value of such assets which are under contract to be managed by private persons and entities at the beginning and end of the reporting period.

"(C) The number of employees of the Corporation at the beginning and end of the reporting period.

"(D) The total amounts expended on employee wages, salaries, and overhead, during the reporting period which are attributable to—

"(i) contracting with, supervising, or reviewing the performance of private contractors, or

"(ii) managing or disposing of such assets.

"(E) A statement of the total amount expended on private contractors for the management of such assets.

"(F) A statement of the efforts of the Corporation to maximize the efficient utilization of the resources of the private sector during the reporting period and in future reporting periods and a description of the policies and procedures adopted to ensure adequate competition and fair and consistent treatment of qualified third parties seeking to provide services to the Corporation.".

SEC. 643. REQUIREMENT TO MINIMIZE PAYMENTS FOR LEGAL SERVICES.

The Federal Deposit Insurance Corporation and the Resolution Trust Corporation shall adopt and follow procedures with respect to contracts for legal, accounting, and investment banking services to assure that, to the extent reasonably practicable—

(1) the costs of such services are minimized, and

(2) there is a sufficiently representative distribution—

(A) geographically, and

(B) in terms of size of firms providing such service and contracts awarded for such services.

Subtitle F—Emergency Assistance for Rhode Island

SEC. 651. EMERGENCY LOAN GUARANTEE.

(a) IN GENERAL.—

(1) PROVISION FOR GUARANTEE.—Subject to the loan collateral conditions established under paragraph (2) and the terms and conditions established in accordance with paragraph (3), the Secretary of the Treasury shall guarantee the repayment of any amount not to exceed $180,000,000 borrowed by the State of Rhode Island and Providence Plantations (hereafter in this section referred to as the "State of Rhode Island"), or the Depositors Economic Protection Corporation established by such State, to expedite the repayment of depositors at State-chartered banks and credit unions in receivership in such State and facilitate the resolution of such receiverships.

(2) LOAN COLLATERAL REQUIRED AS CONDITION FOR GUARANTEE.—The Secretary of the Treasury may not guarantee the repayment of any amount under paragraph (1) unless the amount of any loan for which the guarantee is sought is fully secured as follows:

(A) Any revenue from the State sales tax which is dedicated to the Depositors Economic Protection Corporation under the law of the State of Rhode Island in excess of the amount necessary to pay principal and interest on any obligation of the State or the Corporation issued before the date of the enactment of this Act for the purpose described in paragraph (1) is irrevocably dedicated to the payment of the principal of, and the interest on, the loan for which the guarantee is sought.

(B) Assets held or controlled by the Depositors Economic Protection Corporation, and the proceeds from the sale of such assets, are irrevocably pledged as collateral in an amount sufficient to fully amortize any portion of the loan which is not secured under subparagraph (A).

(3) ADDITIONAL TERMS AND CONDITIONS.—Except as provided in paragraph (2), the terms and conditions for any loan guarantee under paragraph (1) shall be established by mutual agreement of the Secretary of the Treasury and the duly authorized representative of the State of Rhode Island.

(b) APPROPRIATION OF AMOUNTS.—There are hereby appropriated to the Secretary of the Treasury such sums as may be necessary for any fiscal year to meet the obligation of the United States under subsection (a)(1).

(c) DESIGNATION OF PROVISIONS AS EMERGENCY REQUIREMENTS.—Each provision of this section is hereby designated as an emergency requirement for purposes of sections 252(e) and 253 of the Balanced Budget and Emergency Deficit Control Act of 1985, and the President is hereby deemed to have designated each such provision as an emergency requirement for purposes of such section.

Subtitle G—Qualified Thrift Lender Test Improvements

SEC. 661. SHORT TITLE.

This subtitle may be cited as the "Qualified Thrift Lender Reform Act of 1991".

SEC. 662. ADJUSTMENT OF COMPLIANCE PERIODS FOR PURPOSES OF QUALIFIED THRIFT LENDER TEST.

Section 10(m)(1)(B) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(1)(B)) (as in effect on July 1, 1991) is amended to read as follows:

"(B) the savings association's qualified thrift investments continue to equal or exceed 70 percent of the savings association's portfolio assets on a monthly average basis in 9 out of every 12 months.".

SEC. 663. INCREASE IN AMOUNT OF LIQUID ASSETS EXCLUDABLE FROM PORTFOLIO ASSETS.

Section 10(m)(4)(B)(iii) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(B)(iii)) (as in effect on July 1, 1991) is amended by striking "10 percent" and inserting "20 percent".

SEC. 664. ADDITIONAL INVESTMENTS INCLUDED IN DEFINITION OF QUALIFIED THRIFT ASSETS.

Section 10(m)(4)(C) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)) (as in effect on July 1, 1991) is amended—

(1) by adding at the end of clause (ii) the following new subclause:

"(VI) Shares of stock issued by any Federal home loan bank."; and

(2) by adding at the end of clause (iii) the following new subclause:

"(VII) Shares of stock issued by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.".

SEC. 665. PRUDENT DIVERSIFICATION OF ASSETS.

(a) IN GENERAL.—Section 10(m)(4)(C)(iii)(VI) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)(iii)(VI)) (as in effect on July 1, 1991) is amended by striking "5 percent" and inserting "10 percent".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 10(m)(4)(C)(iv) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)(iv)) (as in effect on July 1, 1991) is amended by striking "15 percent" and inserting "20 percent".

SEC. 666. CONSUMER LENDING BY FEDERAL SAVINGS ASSOCIATIONS.

The 2d sentence of section 5(c)(2)(D) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(D)) is amended by striking "30 percent" and inserting "35 percent".

Subtitle H—Prohibition on Entering Secrecy Agreements and Protective Orders

SEC. 671. PROHIBITION ON ENTERING INTO SECRECY AGREEMENTS AND PROTECTIVE ORDERS.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:

"(s) PROHIBITION ON ENTERING SECRECY AGREEMENTS AND PROTECTIVE ORDERS.—The Corporation may not enter into any agreement or approve any protective order which prohibits the Corporation from disclosing the terms of any settlement of an administrative or other action for damages or restitution brought by the Corporation in its capacity as conservator or receiver for an insured depository institution.".

Subtitle I—Establishment of Capital Standard Requirement

SEC. 681. CAPITAL STANDARDS.

Federal banking regulatory agencies shall establish minimum capital standards at least equal to the minimum capital requirements under all international accords to which the United States has agreed on capital standards for financial institutions.

Subtitle J—References in Federal Law

SEC. 691. REFERENCES IN FEDERAL LAW.

(a) BANK HOLDING COMPANY.—After December 31, 1992, any reference in any Federal law to a bank holding company shall be deemed to be a reference to a financial services holding company.

(b) BANK HOLDING COMPANY ACT OF 1956.—Any reference in any Federal law to the Bank Holding Company Act of 1956 shall be deemed to be a reference to the Diversified and Financial Services Holding Company Act of 1991.

(c) ACT NOT TO AFFECT APPLICATION OF INTERNAL REVENUE CODE.—Subsections (a) and (b) shall not apply for purposes of the Internal Revenue Code of 1986, and any reference in such Code to a bank holding company shall not include any bank holding company—

(1) which (directly or indirectly) engages in any activity or holds shares in any company if the engaging in such activity or holding of such shares would not be permitted under the Bank Holding Company Act of 1956 as in effect on the day before the date of the enactment of this Act, or

(2) any shares in which are held by any person if the holding of such shares by such person would not be permitted under such Act as so in effect.

SEC. 692. SEVERABILITY.

If any provision of this Act, or any application of any provision of this Act to any person or circumstance, is held invalid, the remainder of the Act, and the application of any remaining provision of the Act to any other person or circumstance, shall not be affected by such holding.

The CHAIRMAN pro tempore. No amendment to said substitute is in order except those amendments printed in House Report 102-281. Said amendments shall be considered in the order and manner specified in said report and shall be considered as read. Debate time specified for each amendment shall be equally divided and controlled by the proponent of the amendment and a Member opposed thereto. Said amendments shall not be subject to amendment, except as specified in House Report 102-281.

Where House Report 102-281 specifies consideration of amendments en bloc, said amendments shall be so considered and shall not be subject to a demand for a division of the question.

It is in order at any time for the chairman of the Committee on Banking, Finance and Urban Affairs to offer amendments en bloc consisting of amendments, and modifications in the text of any amendments which are germane thereto, printed in House Report 102-281. Said amendments en bloc shall be considered as read and shall be debatable for 20 minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs. The original proponents of the amendments en bloc shall have permission to insert statements in the CONGRESSIONAL RECORD immediately before disposition of the amendments en bloc. Said amendments en bloc shall not be subject to amendment or to a demand for a division of the question.

If amendments numbered 8 and 9 are both adopted, only the latter amendment adopted will be considered as finally adopted and reported back to the House.

The Chair will announce the number of the amendment made in order by House Resolution 266 in order to give notice to the Committee of the Whole as to the order of recognition.

AMENDMENTS EN BLOC OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, pursuant to the rule, I offer amendments en bloc.

The CHAIRMAN pro tempore. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. GONZALEZ:

1. THE AMENDMENT TO BE OFFERED BY REPRESENTATIVE LAFALCE OF NEW YORK OR HIS DESIGNEE, DEBATABLE FOR NOT TO EXCEED 10 MINUTES

Page 73, after line 6, insert the following new subparagraph:

"(F) TREATMENT OF PROFITABLE INSTITUTIONS.—Notwithstanding the provisions of subparagraph (D), the appropriate Federal banking agency may continue to take such other action which the agency determines to be appropriate in lieu of such appointment if the agency determines, with the concurrence of the Corporation, that—

"(i) the insured depository institution is in compliance with an approved capital restoration plan which requires consistent improvement in its capital position;

"(2) the insured depository institution is profitable or has an upward trend in earnings the agency projects as sustainable; and

"(3) the insured depository institution is reducing the ratio of nonperforming assets to total assets.".

16. THE AMENDMENT TO BE OFFERED BY REPRESENTATIVE JOHNSON OF TEXAS OR HIS DESIGNEE, DEBATABLE FOR NOT TO EXCEED 10 MINUTES

Page 105, line 25, before the period insert the following: "or that such person complied with the applicable laws, rules, supervisory directives, and orders, and did not engage in any insider dealing, speculative practice, or other abusive activity while serving on the board of directors or any other management position in the institution."

17. THE AMENDMENT TO BE OFFERED BY REPRESENTATIVE KANJORSKI OF PENNSYLVANIA OR HIS DESIGNEE, DEBATABLE FOR NOT TO EXCEED 10 MINUTES

Page 108, after line 2, insert the following new subtitle (and conform the table of contents accordingly):

Subtitle G—Management and Conflict of Interest Reforms

SEC. 161. SHORT TITLE.

This subtitle may be cited as the "Management and Conflict of Interest Reform Amendments of 1991".

SEC. 162. DEFINITIONS.

(a) Section 202 of the Depository Institution Management Interlocks Act (12 U.S.C. 3201) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) the term 'depository institution' means a commercial bank, a foreign bank, a savings bank, a trust company, a savings association, a building and loan association, a homestead association, a cooperative bank, an industrial bank, or a credit union;";

(2) in paragraph (5), by striking "and";

(3) in paragraph (6), by striking the period and inserting "; and"; and

(4) by adding at the end the following:

"(7) the term 'outside counsel' means any individual who is not a full-time employee of the depository institution or depository holding company and who receives compensation, either directly or through a law firm, partnership, or corporation, for legal services or advice rendered to the depository institution or depository holding company or any of its subsidiaries, affiliates, or holding companies;

"(8) the term 'outside accountant' means any individual who is not a full-time employee of the depository institution or depository holding company and who receives compensation, either directly or through an accounting firm, partnership, or corporation, for accounting services or advice rendered to the depository institution or any of its subsidiaries, affiliates, or holding companies;

"(9) the term 'outside director' means an individual who is a member of the board of directors who is not an employee or officer with management functions of either the depository institution or depository holding company, or any of its subsidiaries, affiliates, or holding companies; and

"(10) the term 'control' has the meaning given to such term in section 2 of the Bank Holding Company Act of 1956 for bank holding companies and section 10(a)(2) of the Home Owners' Loan Act for savings and loan holding companies.".

(b) Section 207(2) of the Depository Institution Management Interlocks Act (12 U.S.C. 3206(2)) is amended to read as follows:

"(2) the Board of Governors of the Federal Reserve System with respect to State banks which are members of the Federal Reserve System, foreign banks, and bank holding companies,".

SEC. 163. DUAL SERVICE OF OUTSIDE COUNSEL AND ACCOUNTANTS ON BOARD OF DIRECTORS PROHIBITED.

The Depository Institution Management Interlocks Act (12 U.S.C. 3201 et seq.) is amended by adding at the end the following new section:

"SEC. 211. DUAL SERVICE OF OUTSIDE COUNSEL AND ACCOUNTANTS ON BOARD OF DIRECTORS PROHIBITED.

"No individual who is an outside counsel or outside accountant of a depository institution or a depository holding company may serve as a member of the board of directors of that depository institution or depository holding company or any of its subsidiaries, affiliates, or holding companies.".

SEC. 164. OWNERSHIP DISCLOSURES TO BOARD OF DIRECTORS.

The Depository Institution Management Interlocks Act (12 U.S.C. 3201 et seq.) (as amended by this subtitle) is amended by adding at the end the following new section:

"SEC. 212. OWNERSHIP DISCLOSURES TO BOARD OF DIRECTORS.

"Not less than once each calendar year each depository institution and depository holding company shall provide to each member of its board of directors, and to each member of the board of directors of any depository institution or depository holding company it controls, a list of the names and principal places of business of each individual or company which directly or indirectly owns, controls, or has power to vote 5 percent or more of any class of voting securities of the depository institution or depository holding company, and such other information as the appropriate Federal depository institutions regulatory agency shall prescribe by regulation.".

SEC. 165. CHANGE IN CONTROL DISCLOSURES TO BOARD OF DIRECTORS.

The Depository Institute Management Interlocks Act (12 U.S.C. 3201 et seq.) (as amended by this subtitle) is amended by adding at the end the following new section:

"SEC. 213. CHANGE IN CONTROL DISCLOSURES TO BOARD OF DIRECTORS.

"Each depository institution and depository holding company shall provide to each member of its board of directors, and to each member of the board of directors of any depository institution or depository holding company it controls, with notice of any proposed change in control of the parent depository institution or depository holding company. Such notice shall contain such information as the appropriate Federal depository institutions regulatory agency of the parent depository institution or depository holding company shall prescribe by regulation.".

SEC. 166. BOARD OF DIRECTORS CONTROL BY OUTSIDE DIRECTORS.

The Depository Institution Management Interlocks Act (12 U.S.C. 3201 et seq.) (as amended by this subtitle) is amended by adding at the end the following new section;

"SEC. 214. BOARD OF DIRECTORS CONTROL BY OUTSIDE DIRECTORS.

"A majority of the voting members of the board of directors of each depository institution and each depository holding company shall be outside directors.".

18. THE AMENDMENTS EN BLOC TO BE OFFERED BY REPRESENTATIVE RIDGE OF PENNSYLVANIA OR HIS DESIGNEE, DEBATABLE FOR NOT TO EXCEED 10 MINUTES

Page 164, beginning on line 21, strike, subparagraphs (A) and (B) through page 165, line 18 and insert the following:

(A) any increase during such period in the amount of new originations of qualified loans and other financial assistance provided for low- and moderate-income persons in distressed communities, or enterprises integrally involved with such neighborhoods, which the Board determines are qualified to be taken into account for purposes of this subsection; and

(B) any increase during such period in the amount of deposits accepted from persons domiciled in the distressed community, at any office of the institution (including any branch) located in any qualified distressed community, and any increase during such period in the amount of new originations of loans and other financial assistance made within that community, except that in no case shall the credit for increased deposits at any institution or branch exceed the credit for increased loan and other financial assistance by the bank or branch in the distressed community.

19. THE AMENDMENT TO BE OFFERED BY REPRESENTATIVE FRANK OF MASSACHUSETTS OR HIS DESIGNEE, DEBATABLE FOR NOT TO EXCEED 10 MINUTES

Page 477, after line 25, insert the following new subtitle:

Subtitle E—FDIC Property Disposition

SEC. 541. FDIC AFFORDABLE HOUSING PROGRAM.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 41 (as added by section 512 of this Act) the following new section:

"SEC. 42. FDIC AFFORDABLE HOUSING PROGRAM.

"(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 41 (as added by section 512 of this Act) the following new section:

"SEC. 42. FDIC AFFORDABLE HOUSING PROGRAM.

"(a) PURPOSE.—The purpose of this section is to provide homeownership and rental housing opportunities for very low-income, low-income, and moderate-income families.

"(b) LIMITATIONS ON APPLICABILITY OF PROGRAM.—

"(1) DURATION OF PROGRAM.—The provisions of this section shall be effective, subject to the provisions of paragraph (2), only during the 3-year period beginning 180 days after the enactment of the Financial Institutions Safety and Consumer Choice Act of 1991.

"(2) FISCAL LIMITATIONS.—

"(A) IN GENERAL.—During the period in which the provisions of this section are effective (as provided in paragraph (1)), such provisions shall apply only during the period beginning on the commencement date under subparagraph (B) and ending (if applicable) on the termination date under subparagraph (C).

"(B) COMMENCEMENT DATE.—For purposes of this paragraph, the commencement date shall be the day during the period referred to in paragraph (1) on which sufficient amounts are first determined to be available to compensate the Corporation for any losses resulting from the sale of properties under this section. For purposes of this subparagraph, such losses shall be the amount equal to the sum of any affordable housing discounts reasonably anticipated to accrue during the period in which the program under this section is effective. If the determination under the first sentence of this subparagraph is made before the commencement of the period referred to in paragraph (1), the commencement date shall be considered to be the first day of the period referred to in paragraph (1).

"(C) TERMINATION DATE.—For purposes of this paragraph, the termination date shall be the day during the period referred to in paragraph (1) on which the sum of the affordable housing discounts for eligible residential properties transferred under this section by the Corporation first exceeds $30,000,000, as determined by the Corporation.

"(D) OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'affordable housing discount' means, with respect to any eligible residential property transferred under this section by the Corporation, the difference (if any) between the realizable disposition value of the property and the actual sale price of the property under this section; and

"(ii) the term 'realizable disposition value' means the estimated sale price that the Corporation reasonably would be able to obtain upon the sale of a property by the Corporation under the provisions of this Act, not including this section, and any other applicable laws, as determined by the Corporation taking into consideration such factors as the Corporation considers appropriate, including the actual sale prices of properties disposed of by the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act and the prices of other properties sold under similar programs.

"(3) EXISTING CONTRACTS.—The provisions of this section shall not apply to any eligible residential property that is subject to an agreement entered into by the Corporation before the date of the enactment of the Financial Institutions Safety and Consumer Choice Act of 1991 providing for any other disposition of the property.

"(c) RULES GOVERNING DISPOSITION OF ELIGIBLE SINGLE FAMILY PROPERTIES.—

"(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible single family property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property, including but not limited to location, condition, and information relating to the estimated fair market value of the property. Each clearinghouse shall make such information available, upon request, to other public agencies, other nonprofit organizations, and qualifying households. The Corporation shall allow public agencies, nonprofit organizations, and qualifying households reasonable access to eligible single family property for purposes of inspection.

"(2) OFFERS TO SELL SINGLE FAMILY PROPERTIES TO NONPROFIT ORGANIZATIONS, PUBLIC AGENCIES, AND QUALIFYING HOUSEHOLDS.—During the 180-day period beginning on the date on which the Corporation makes an eligible single family property available for sale, the Corporation shall offer to sell the property to—

"(A) qualifying households; or

"(B) public agencies or nonprofit organizations that agree to (i) make the property available for occupancy by and maintain it as affordable for low-income families for the remaining useful life of such property, or (ii) make the property available for purchase by such families.

The restrictions described in clause (i) of subparagraph (B) shall be contained in the deed or other recorded instrument. If, upon the expiration of such 180-day period, no qualifying household, public agency, or nonprofit organization has made a bona fide offer, or nonprofit organization has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any purchaser. The Corporation shall actively market eligible single family properties for sale to low-income families.

"(3) RECAPTURE OF PROFITS FROM RESALE OF SINGLE FAMILY PROPERTIES.—Except as provided in paragraph (5), if any eligible single family property sold to a qualifying household is resold by the qualifying household during the 2-year period beginning upon initial acquisition by the household, the Corporation shall recapture the percentage provided in paragraph (4) of the amount of any proceeds from the resale that exceeds the sum of (A) the original sale price for the acquisition of the property of the qualifying household, (B) the costs of any improvements to the property made after the date of the acquisition, and (C) any closing costs in connection with the acquisition.

"(4) PERCENTAGE OF PROFIT RECAPTURED.—The percentage of excess proceeds recaptured under paragraph (3) shall be as follows:

"(A) FIRST YEAR.—In the case of any resale occurring during the 1-year period beginning upon initial acquisition by the qualifying household, 75 percent of the amount of such excess proceeds.

"(B) SECOND YEAR.—In the case of any resale occurring during the 1-year period beginning 1 year after initial acquisition by the qualifying household, 50 percent of the amount of such excess proceeds.

"(5) EXCEPTION TO RECAPTURE REQUIREMENT.—The Corporation may in its discretion waive the applicability to any qualifying household of the requirement under paragraph (3) and the requirements relating to residency of a qualifying household under subsections (o)(12)(B) and (C). The Corporation may grant such a waiver only for good cause shown, including any necessary relocation of the qualifying household.".

"(6) EXCEPTION TO AVOID DISPLACEMENT OF EXISTING RESIDENTS.—Notwithstanding the first sentence of paragraph (2), during the 180-day period beginning on the date on which the Corporation makes an eligible single family property available for sale, the Corporation may sell the property to the household residing in the property, but only if (A) such household was residing in the property at the time notice regarding the property was provided to clearinghouses under paragraph (1), (B) such sale is necessary to avoid the displacement of, and unnecessary hardship to, the resident household, and (C) the resident household intends to occupy the property as a principal residence.".

"(d) RULES GOVERNING DISPOSITION OF ELIGIBLE MULTIFAMILY HOUSING PROPERTIES.—

"(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible multifamily housing property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property, including but not limited to location, number of units (identified by number of bedrooms), and information relating to the estimated fair market value of the property. Each clearinghouse shall make such information available, upon request, to qualifying multifamily purchasers. The Corporation shall allow qualifying multifamily purchasers reasonable access to eligible multifamily housing properties for purposes of inspection.

"(2) EXPRESSION OF SERIOUS INTEREST.—Qualifying multifamily purchasers may give written notice of serious interest in a property during a period ending 90 days after the time the Corporation provides notice under paragraph (1), or until the Corporation determines that a property is ready for sale, whichever occurs first. The notice of serious interest shall be in such form and include such information as the Corporation may prescribe.

"(3) NOTICE OF READINESS FOR SALE.—Upon determining that a property is ready for sale, the Corporation shall provide written notice to any qualifying multifamily purchaser that has expressed serious interest in the property. Such notice shall specify the minimum terms and conditions for sale of the property.

"(4) OFFERS BY QUALIFYING MULTIFAMILY PURCHASERS.—A qualifying multifamily purchaser receiving notice in accordance with paragraph (3) shall have 45 days (from the date notice is received) to make a bona fide offer to purchase the property. The Corporation shall accept an offer that complies with the terms and conditions established by the Corporation.

"(5) EXTENSION OF RESTRICTED OFFER PERIODS.—The Corporation may provide notice to clearinghouses regarding, and offer for sale under the provisions of paragraphs (1) through (4), any eligible multifamily housing property—

"(A) in which no qualifying multifamily purchaser has expressed serious interest during the period referred to in paragraph (2), or

"(B) for which no qualifying multifamily purchaser has made a bona fide offer before the expiration of the period referred to in paragraph (4),

except that the Corporation may, in the discretion of the Corporation, alter the duration of the periods referred to in paragraphs (2) and (4) in offering any property for sale under this paragraph.

"(6) SALE OF MULTIFAMILY PROPERTIES TO OTHER PURCHASERS.—

"(A) TIMING.—If, upon the expiration of the period referred to in paragraph (2), no qualifying multifamily purchaser has expressed serious interest in a property, the Corporation may offer to sell the property, individually or in combination with other properties, to any purchaser.

"(B) LIMITATION ON COMBINATION SALES.—The Corporation may not sell in combination with other properties any property for which a qualifying multifamily purchaser has expressed serious interest in purchasing individually.

"(C) EXPIRATION OF OFFER PERIOD.—If, upon the expiration of the period referred to in paragraph (4), no qualifying multifamily purchaser has made an offer to purchase a property, the Corporation may offer to sell the property, individually or in combination with other properties, to any purchaser.

"(7) LOW-INCOME OCCUPANCY REQUIREMENTS.—

"(A) SINGLE BUILDING PROPERTIES.—With respect to any property consisting of a single building or structure purchased by a qualifying multifamily purchaser under paragraph (4)—

"(i) not less than 35 percent of the dwelling units in the building or structure shall be made available for occupancy by and maintained as affordable for low-income families during the remaining useful life of the building or structure in which the units are located; and

"(ii) not less than 20 percent of the dwelling units in the building or structure shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the building or structure in which the units are located.

"(B) AGGREGATION REQUIREMENTS FOR MULTISTRUCTURE PURCHASES.—With respect to any purchase under paragraph (4) by a qualifying multifamily purchaser property involving a property consisting of more than one building or structure or involving more than one property as a part of the same negotiation—

"(i) not less than 40 percent of the aggregate number of dwelling units in all of the buildings or structures of the properties purchased shall be made available for occupancy by and maintained as affordable for low-income families during the remaining useful life of the building or structure in which the units are located;

"(ii) not less than 20 percent of the aggregate number of dwelling units in all of the buildings or structures of the properties shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the building or structure in which the units are located; and

"(iii) not less than 10 percent of the dwelling units in each separate building or structure of each property purchased shall be made available for occupancy by and maintained as affordable for low-income families during the remaining useful life of the building or structure in which the units are located.

The requirements of this paragraph shall be contained in the deed or other recorded instrument.

"(8) EXEMPTIONS.—

"(A) CONTINUED OCCUPANCY OF CURRENT RESIDENTS.—No purchaser of an eligible multifamily property may terminate the occupancy of any person residing in the property on the date of purchase for purposes of the meeting low-income occupancy requirement applicable to the property under paragraph (7). The purchaser shall be considered to be in compliance with this subsection if each newly vacant dwelling unit is reserved for low-income occupancy until the low-income occupancy requirement is met.

"(B) FINANCIAL INFEASIBILITY.—The Secretary or the State housing finance agency for the State in which an eligible multifamily housing property is located may temporarily reduce the low-income occupancy requirements applicable to the property under paragraph (7), if the Secretary or such agency determines that an owner's compliance with such requirements is no longer financially feasible. The owner of the property shall make a good-faith effort to return low-income occupancy to the level required under paragraph (7), and the Secretary or the State housing finance agency, as appropriate, shall review the reduction annually to determine whether financial infeasibility continues to exist.

"(e) RENT LIMITATIONS.—

"(1) IN GENERAL.—With respect to properties under paragraph (2), rents charged to tenants for units made available for occupancy by very low-income families shall not exceed 30 percent of the income of a family whose income equals 50 percent of the median income for the area, as determined by the Secretary, with adjustment for family size. Rents charged to tenants for units made available for occupancy by low-income families other than very low-income families shall not exceed 30 percent of the income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(2) APPLICABILITY.—The rent limitations under this subsection shall apply to any eligible single family property sold pursuant to subsection (c)(2)(B)(i) and to any eligible multifamily housing property sold pursuant to subsection (d).

"(f) PREFERENCES FOR SALES.—

"(1) IN GENERAL.—In selling any eligible multifamily housing property or combinations of eligible residential properties, the Corporation shall give preference, among substantially similar offers, to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low-income and low-income families and would retain such affordability for the longest term.

"(2) MULTISTRUCTURE PURCHASES.—The Corporation shall give preference, among substantially similar offers made under subsection (d)(4) to purchase an eligible multifamily housing property consisting of more than one building or to purchase more than one such property as a part of the same negotiation, to offers made by purchasers who agree to maintain low-income occupancy in each separate building or structure of each such property purchased in compliance with the levels required for properties under subsection (d)(7)(A).

"(3) DEFINITION OF SUBSTANTIALLY SIMILAR OFFERS.—For purposes of this subsection, a given offer to purchase eligible multifamily housing property or combinations of eligible residential properties shall be considered to be substantially similar to another offer if the purchase price under such given offer is not less than 85 percent and not greater than 115 percent of the purchase price under the other offer.

"(g) FINANCING SALES.—

"(1) ASSISTANCE BY CORPORATION.—

"(A) SALE PRICE.—The Corporation may sell eligible single family property to qualifying households, nonprofit organizations, and public agencies without regard to any minimum sale price. The Corporation shall establish a market value for each eligible multifamily housing property and shall sell such property at the net realizable market value, except that the Corporation may agree to sell eligible multifamily housing property at a price below the net realizable market value to the extent necessary to facilitate an expedited sale of the property and enable a public agency or nonprofit organization to comply with the low-income occupancy requirements applicable to such property under subsection (d)(7).

"(B) PURCHASE LOAN.—The Corporation may provide a loan at market interest rates to any purchaser of eligible residential property for all or a portion of the purchase price, which loan shall be secured by a first or second mortgage on the property. The Corporation may provide the loan at below market interest rates to the extent necessary to facilitate an expedited sale of eligible residential property and permit (i) a low-income family to purchase an eligible single family property under subsection (c), or (ii) a public agency or nonprofit organization to comply with the low-income occupancy requirements applicable to the purchase of an eligible residential property under subsection (c) or (d). The Corporation shall provide loans under this subparagraph in a form permitting sale or transfer of the loan to a subsequent holder.

"(2) ASSISTANCE BY HUD.—The Secretary shall take such action as may be necessary to expedite the processing of applications for assistance under section 202 of the Housing Act of 1959, the United States Housing Act of 1937, title IV of the Stewart B. McKinney Homeless Assistance Act, and the National Housing Act to enable any organization or individual to purchase eligible residential property.

"(3) ASSISTANCE BY FMHA.—The Secretary of Agriculture shall take such action as may be necessary to expedite the processing of applications for assistance under title V of the Housing Act of 1949 to enable any organization or individual to purchase eligible residential property.

"(4) EXCEPTION TO DISPOSITION RULES.—Notwithstanding the requirements under paragraphs (1), (2), (3), (4), (6), and (8) of subsection (d), the Corporation may provide for the disposition of eligible multifamily housing properties as necessary to facilitate purchase of such properties for use in connection with section 202 of the Housing Act of 1959.

"(5) BULK ACQUISITIONS UNDER HOME INVESTMENT PARTNERSHIPS ACT.—

"(A) PURCHASE PRICE.—In providing for bulk acquisition of eligible single family properties by participating jurisdictions for inclusion in affordable housing activities under title II of the Cranston-Gonzalez National Affordable Housing Act, the Corporation shall agree to an amount to be paid for acquisition of such properties. The acquisition price shall include discounts for bulk purchase and for holding of the property such that the acquisition price for each property shall not exceed the fair market value of the property, as valued individually.

"(B) EXEMPTIONS.—To the extent necessary to facilitate sale of properties under this paragraph, the requirements of subsections (c), (f), and (g)(1) shall not apply to such transactions and properties involved in such transactions.

"(C) INVENTORIES.—To facilitate acquisitions by such participating jurisdictions, the Corporation shall provide the participating jurisdictions with inventories of eligible single family properties not less than 4 times each year.

"(h) RULES GOVERNING DISPOSITION OF ELIGIBLE CONDOMINIUM PROPERTY.—

"(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible condominium property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property. Each clearinghouse shall make such information available, upon request, to purchasers described in subparagraphs (A) through (D) of paragraph (2). The Corporation shall allow such purchasers reasonable access to an eligible condominium property for purposes of inspection.

"(2) OFFERS TO SELL.—During the 180-day period following the date on which the Corporation makes an eligible condominium property available for sale, the Corporation may offer to sell the property, at the discretion of the Corporation, to 1 or more of the following purchasers:

"(A) Qualifying households.

"(B) Nonprofit organizations.

"(C) Public agencies.

"(D) For-profit entities.

"(3) LOW-INCOME OCCUPANCY REQUIREMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any nonprofit organization, public agency, or for-profit entity that purchases an eligible condominium property shall (i) make the property available for occupancy by and maintain it as affordable for low-income families for the remaining useful life of the property, or (ii) make the property available for purchase by such families. The restriction described in clause (i) of the preceding sentence shall be contained in the deed or other recorded instrument.

"(B) MULTIPLE-UNIT PURCHASES.—If any nonprofit organization, public agency, or for-profit entity purchases more than 1 eligible condominium property as a part of the same negotiation or purchase, the Corporation may (in the discretion of the Corporation) waive the requirement under subparagraph (A) and provide instead that not less than 35 percent of all eligible condominium properties purchased shall be (i) made available for occupancy by and maintained as affordable for low-income families for the remaining useful life of the property, or (ii) made available for purchase by such families. The restriction described clause (i) of the preceding sentence shall be contained in the deed or other recorded instrument.

"(C) SALE TO OTHER PURCHASERS.—If, upon the expiration of the 180-day period referred to in paragraph (2), no purchaser described in subparagraphs (A) through (D) of paragraph (2) has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any other purchaser.

"(i) COORDINATION WITH OTHER PROGRAMS.—

"(1) USE OF SECONDARY MARKET AGENCIES.—In the disposition of eligible residential properties, the Corporation (in consultation with the Secretary) shall explore opportunities to work with secondary market entities to provide housing for low- and moderate-income families.

"(2) CREDIT ENHANCEMENT.—With respect to such properties, the Secretary may, consistent with statutory authorities, work through the Federal Housing Administration, the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other secondary market entities to develop risk-sharing structures, mortgage insurance, and other credit enhancements to assist in the provision of property ownership, rental, and cooperative housing opportunities for low- and moderate-income families.

"(3) NATIONAL AFFORDABLE HOUSING ACT.—The Corporation shall coordinate the disposition of eligible residential property under this section with appropriate programs and provisions of, and amendments made by, the Cranston-Gonzalez National Affordable Housing Act, including titles II and IV of such Act.

"(j) EXEMPTION FOR CERTAIN TRANSACTIONS WITH INSURED DEPOSITORY INSTITUTIONS.—The provisions of this section shall not apply with respect to any eligible residential property after the date the Corporation enters into a contract to sell such property to an insured depository institution (as defined in section 3), including any sale in connection with a transfer of all or substantially all of the assets of a closed insured depository institution (including such property) to another insured depository institution.

"(k) EXCEPTION FOR SALES TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.—

"(1) SUSPENSION OF OFFER PERIODS.—With respect to any eligible residential property, the Corporation may (in the discretion of the Corporation) suspend any of the requirements of paragraphs (1) and (2) of subsection (c) and paragraphs (1) through (4) of subsection (d), as applicable, but only to the extent that during the duration of the suspension the Corporation negotiates the sale of the property to a nonprofit organization or public agency. If the property is not sold pursuant to such negotiations, the requirements of any provisions suspended shall apply upon the termination of the suspension. Any time period referred to in such subsection shall toll for the duration of any suspension under this paragraph.

"(2) USE RESTRICTIONS.—Any eligible single family property sold under this subsection shall be made available for occupancy by and maintained as affordable for low-income families for the remaining useful life of the property, or made available for purchase by such families. Eligible multifamily housing properties sold under this subsection shall comply with the low-income occupancy requirements under subsection (d)(7).

"(l) LIABILITY PROVISIONS.—

"(1) IN GENERAL.—The provisions of this section, or any failure by the Corporation to comply with such provisions, may not be used by any person to attack or defeat any title to property after it is conveyed by the Corporation.

"(2) LOW-INCOME OCCUPANCY.—The low-income occupancy requirements under subsections (c) and (d) shall be judicially enforceable against purchasers of property under this section and their successors in interest by affected very low- and low-income families, State housing finance agencies, and any agency, corporation, or authority of the United States. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

"(3) CLEARINGHOUSES.—A clearinghouse shall not be subject to suit for its failure to comply with the requirements of this section.

"(4) CORPORATION.—The Corporation shall not be liable to any depositor, creditor, or shareholder of any insured depository institution for which the Corporation has been appointed receiver, or any claimant against such an institution, because the disposition of assets of the institution under this section affects the amount of return from the assets.

"(m) AFFORDABLE HOUSING PROGRAM OFFICE.—The Corporation shall establish an Affordable Housing Program Office within the Corporation to carry out the provisions of this section and shall dedicate certain staff of the Corporation to the office.

"(n) REPORT.—In the annual report submitted by the Secretary to the Congress under section 8 of the Department of Housing and Urban Development Act, the Secretary shall include a detailed description of any activities under this section, including recommendations for any additional authority the Secretary considers necessary to implement the provisions of this section.

"(o) DEFINITIONS.—For purposes of this section:

"(1) CLEARINGHOUSE.—The term 'clearinghouse' means—

"(A) the State housing finance agency for the State in which an eligible residential property is located;

"(B) the Office of Community Investment (or other comparable division) within the Federal Housing Finance Board; and

"(C) any national nonprofit organizations (including any nonprofit entity established by the corporation established under title IX of the Housing and Community Development Act of 1968) that the Corporation determines has the capacity to act as a clearinghouse for information.

"(2) CORPORATION.—The term 'Corporation' means the Federal Deposit Insurance Corporation acting in its corporate capacity or its capacity as receiver.

"(3) ELIGIBLE CONDOMINIUM PROPERTY.—The term 'eligible condominium property' means a condominium unit, as such term is defined in section 604 of the Housing and Community Development Act of 1980—

"(A) to which such Corporation acquires title; and

"(B) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high cost areas).

"(4) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—The term 'eligible multifamily housing property' means a property consisting of more than 4 dwelling units—

"(A) to which the Corporation acquires title; and

"(B) that has an appraised value that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (without regard to any increase of such amount for high-cost areas).

"(5) ELIGIBLE RESIDENTIAL PROPERTY.—The term 'eligible residential property' includes eligible single family properties and eligible multifamily housing properties.

"(6) ELIGIBLE SINGLE FAMILY PROPERTY.—The term 'eligible single family property' means a 1- to 4-family residence (including a manufactured home)—

"(A) to which the Corporation acquires title; and

"(B) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high-cost areas).

"(7) INCOME.—The term 'income' shall have the meaning given the term in section 3(b) of the United States Housing Act of 1937.

"(8) LOW-INCOME FAMILIES.—The term 'low-income families' means families and individuals whose incomes do not exceed 80 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.

"(9) NET REALIZABLE MARKET VALUE.—The term 'net realizable market value' means a price below the market value that takes into account (A) any reductions in holding costs resulting from the expedited sale of a property, including foregone real estate taxes, insurance, maintenance costs, security costs, and loss of use of funds, and (B) the avoidance, if applicable, of fees paid to real estate brokers, auctioneers, or other individuals or organizations involved in the sale of property owned by the Corporation.

"(10) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means a private organization (including a limited equity cooperative)—

"(A) no part of the earnings of which inures to the benefit of any member, shareholder, founder, contributor, or individual; and

"(B) that is approved by the Corporation as to financial responsibility.

"(11) PUBLIC AGENCY.—The term 'public agency' means any Federal, State, local, or other governmental entity, and includes any public housing agency.

"(12) QUALIFYING HOUSEHOLD.—The term 'qualifying household' means a household—

"(A) who intends to occupy eligible single family property as a principal residence;

"(B) who agrees to occupy the property as a principal residence for not less than 12 months (except as provided in subsection (c)(5));

"(C) who certifies in writing that the household intends to occupy the property as a principal residence for not less than 12 months (except as provided in subsection (c)(5)); and

"(D) whose income does not exceed 115 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(13) QUALIFYING MULTIFAMILY PURCHASER.—The term 'qualifying multifamily purchaser' means—

"(A) a public agency;

"(B) a nonprofit organization; or

"(C) a for-profit entity, which makes a commitment (for itself or any related entity) to comply with the low-income occupancy requirements under subsection (d)(7) for any eligible multifamily housing property for which an offer to purchase is made during or after the periods specified under subsection (d).

"(14) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(15) STATE HOUSING FINANCE AGENCY.—The term 'State housing finance agency' means the public agency, authority, corporation, or other instrumentality of a State that has the authority to provide residential mortgage loan financing throughout the State.

"(16) VERY LOW-INCOME FAMILIES.—The term 'very low-income families' means families and individuals whose incomes do not exceed 50 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.".

(b) COORDINATION.—The Federal Deposit Insurance Corporation and the Resolution Trust Corporation shall consult and coordinate with each other in carrying out their respective responsibilities under the affordable housing programs under section 42 of the Federal Deposit Insurance Act and section 21A(c) of the Federal Home Loan Bank Act. Such corporations shall develop any procedures, and may enter into any agreements, necessary to provide for the coordinated, efficient, and effective operation of such programs.

(c) CONFORMING AMENDMENTS.—

(1) FEDERAL DEPOSIT INSURANCE ACT.—Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended—

(A) in paragraph (2)(B), in the matter preceding clause (i), by inserting "(subject to the provisions of section 42)" before the comma; and

(B) in paragraph (2)(E), by inserting "(subject to the provisions of section 42)" before the first comma.

"(2) HOUSING ACT OF 1959.—Section 202(h)(2) of the Housing Act of 1959 (12 U.S.C. 1701q(h)(2)), as amended by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act, is amended by inserting "or from the Federal Deposit Insurance Corporation under section 42 of the Federal Deposit Insurance Act" after "Federal Home Loan Bank Act".

Page 5, in the table of contents, strike the item relating to section 524 and insert the following new items:

Sec. 531. Liquidations of federally insured State credit unions.

SUBTITLE E—FDIC PROPERTY DISPOSITION

Sec. 541. FDIC affordable housing program.

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23. THE AMENDMENT TO BE OFFERED BY REPRESENTATIVE CAMPBELL OF CALIFORNIA OR HIS DESIGNEE, DEBATABLE FOR NOT TO EXCEED 10 MINUTES

Page 447, line 7, strike the closing quotation marks and the second period.

Page 447, after line 7, insert the following new paragraph:

"(3) LOAN EVALUATION STANDARD.—No Federal financial regulatory agency shall adversely evaluate an investment or a loan made by a federally insured depository institution, or consider such a loan to be nonperforming, solely because the loan is made to or the investment is in commercial, residential, or industrial property.".

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21. THE AMENDMENTS EN BLOC TO BE OFFERED BY REPRESENTATIVE REED OF RHODE ISLAND OR HIS DESIGNEE, DEBATABLE FOR NOT TO EXCEED 10 MINUTES

Page 515, beginning on line 15, strike "Subject to the loan collateral conditions established under paragraph (2) and the terms and conditions established in accordance with paragraph (3)" and insert "Subject to the terms and conditions established by or under this subsection".

Page 516, strike line 10 and all that follows through page 517, line 8, and insert the following:

(A) A first lien on assets held or controlled by the Depositors Economic Protection Corporation and the proceeds from the sale of such assets, are irrevocably pledged to the extent necessary to provide collateral for the guarantee.

(B) If the lien and assets described in subparagraph (A) are insufficient to fully secure the guarantee, then a first lien on any assets held or controlled by the State of Rhode Island or any instrumentality of the State of Rhode Island and the proceeds from the sale of such assets, are irrevocably pledged to the extent necessary to provide collateral for the guarantee.

(C) If the liens and assets described in subparagraphs (A) and (B) are insufficient to fully secure the guarantee, then any revenue from the State sales tax which is dedicated to the Depositors Economic Protection Corporation under the law of the State of Rhode Island in excess of the amount necessary to pay principal and interest on any obligation of the State or the Corporation issued before the date of the loan, is irrevocably dedicated to the extent necessary to provide collateral for the guarantee.

(3) GUARANTEE FEES.—The Secretary may assess and collect with respect to loans guaranteed under this subsection an annual guarantee fee computed daily at a rate which may not exceed one-half of 1 percent of the outstanding principal amount of the guaranteed loan.

(4) PLEDGE OF CERTAIN INCOME FOR REPAYMENT.—The Secretary may not guarantee under this section the repayment of any loan proposed to be made to the Depositors Economic Protection Corporation unless, for each fiscal year of the Depositors Economic Protection Corporation, all rents, issues, profits, products, proceeds, revenues, and other income (including insurance proceeds and condemnation awards) received by the Corporation from, or attributable to, the assets pledged to the United States in accordance with this subsection, in excess of the amount necessary to pay the interest, or principal and interest, on any loan to the Corporation guaranteed under paragraph (1) that is payable in such fiscal year, are irrevocably pledged to be deposited into a sinking fund or defeasance fund maintained by the Corporation and are irrevocably pledged and dedicated to the repayment of the principal of such guaranteed loan in the inverse order of the maturity of such principal installments.

(5) INVESTMENT GRADE RATING.—The Secretary may not guarantee under this section the repayment of any loan proposed to be made to the Depositors Economic Protection Corporation unless—

(A) each such proposed loan has received from a nationally recognized statistical rating organization a rating (for purposes of which the collateral securing the guarantee is considered to be securing the loan) of either the highest investment grade rating or not less than 1 less than the highest investment grade rating; or

(B) if no such rating is issued, the Secretary determines that the collateral securing the guarantee is sufficient so as to pose no risk of loss to the Federal government.

(6) TERMS.—

(A) IN GENERAL.—The guarantee provided for in this subsection shall be with respect to a loan which—

(i) is made not more than 1 year after the date of enactment of this Act;

(ii) will mature not later than 10 years after the date of such loan; and

(iii) is scheduled to be repaid in equal installments of principal during the last 5 years of the repayment term of such loan.

(B) AUTHORITY TO VARY TIME PERIODS.—The Secretary and the duly authorized representative of the State of Rhode Island may, by mutual agreement, modify any durational requirement specified in subparagraph (A).

(7) ADDITIONAL TERMS AND CONDITIONS.—Except as otherwise provided in this subsection, the terms and conditions of any loan guarantee under this section shall be established by mutual agreement of the Secretary of the Treasury and the duly authorized representative of the State of Rhode Island.

The CHAIRMAN (Mr. CARR). The gentleman from Texas [Mr. GONZALEZ] is recognized for 10 minutes.

Mr. GONZALEZ. Mr. Chairman, I yield myself such time as I may consume.

I would like to offer seven amendments en bloc which have been cleared by the minority and which I believe are not controversial.

From title I, amendment No. 1 offered by Mr. LAFALCE, to provide flexibility in the requirement that regulators close an institution when it reaches the 2-percent capital level. Also in title I, amendment No. 16 by Mr. JOHNSON of Texas to allow FDIC to waive the requirement that directors of a troubled bank be removed. And finally from title I, amendment No. 17 by Mr. KANJORSKI to prohibit individuals whose employment depends on the bank from also serving as bank directors.

From title II, amendment No. 18 offered by Mr. RIDGE to clarify his Bank Enterprise Act proposal.

From title V, amendment No. 19 offered by Mr. FRANK to create an affordable housing program for FDIC. Also from title V, amendment No. 23 by Mr. CAMPBELL of California to prohibit bank examiners from discriminating against real estate loans.

From title VI, amendment No. 21 offered by Mr. REED of Rhode Island to change the loan guarantees in this bill so that they are no longer direct-spending provisions.

These amendments improve this legislation and I urge their adoption.

The CHAIRMAN. The gentleman from Ohio [Mr. WYLIE] is recognized for 10 minutes.

Mr. WYLIE. Mr. Chairman, we on this side accept the en bloc amendments, and want to commend the chairman for his cooperation in submitting the amendments to us ahead of time. We did have three amendments which we regarded as controversial, which the chairman agreed to delete from the en bloc amendments.

As has been mentioned, there are seven of the so-called en bloc amendments. One by the gentleman from Texas [Mr. JOHNSON] was alluded to and would clarify the FDIC's waiver authority in cases where H.R. 6 requires that a board of directors must be removed after the FDIC grants a bank assistance. This clarifies a provision which the chairman and I put in the banking bill in its original form and I think from that standpoint is procedural.

I also support the amendment of the gentleman from Pennsylvania [Mr. KANJORSKI] which remedies a serious problem that we discovered in the BCCI hearings. During these hearings, we learned a tremendous amount of conflict of interest existed between the lawyers for the bank in their role as directors of the bank. What this amendment would do is to say that a person cannot serve both as counsel and as a member of the board of directors.

The Ridge amendment would correct a pay-go problem with the Bank Enterprise Act.

The gentleman from California [Mr. CAMPBELL] and the gentleman from Virginia [Mr. MORAN] both have separate amendments dealing with the credit crunch, and I am concerned that the credit crunch is a real problem. I think what their amendments do, in effect, is to express the will of Congress that we are concerned about as it applies to real estate evaluations. I think basically that is what it does.

The LaFalce amendment, we had a chance to look at. It is a good amendment and it gives the regulators greater flexibility in dealing with problem institutions. I might say that the administration just indicated support for this amendment. I commend the gentleman for offering it.

Lastly, the gentleman from Rhode Island [Mr. REED] and the gentleman from Rhode Island [Mr. MACHTLEY] have an amendment to try to solve the problems concerning Federal assistance for the Rhode Island deposit insurance fund. The collapse of this fund has caused great pain in that State. This amendment corrects some administrative concerns early on and allows for a loan guarantee arrangement which we think is desirable.

So with that, Mr. Chairman, I have no objection to the en bloc amendments.

Mr. Chairman, I reserve the balance of my time.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. LAFALCE] for purposes of a colloquy.

Mr. LAFALCE. Mr. Chairman, I sincerely appreciate the support of the gentleman from Texas for my amendment and the support of the gentleman from Ohio [Mr. WYLIE] also on the early intervention issue.

It is my understanding that my amendment is incorporated in the en bloc amendments with the technical changes that we have agreed to.

My amendment is designed to achieve two important critical goals: First, to save the taxpayer money by giving the regulators discretion not to close institutions when options less expensive to the taxpayer are available, and second, to closely circumscribe regulatory discretion to ensure that only institutions that are viable are permitted to remain open.

Mr. Chairman, before I yield, if I may on a personal note unrelated to the amendment, I would like to take this opportunity to thank the gentleman from Texas for his efforts to craft a compromise, not just on this amendment, but on the whole issue of banking reform. No compromise will ever please everyone, but the very fact of any compromise in this contentious issue is an achievement in itself. I know the gentleman made his best effort.

Mr. GONZALEZ. Mr. Chairman, if the gentleman will yield, I want to thank the gentleman very sincerely. The gentleman is the chairman of the Committee on Small Business, so he knows whereof he speaks when he talks about crafting compromises.

I would like to say with reference to this that I want to thank the gentleman, too, for getting together with the staffs and ironing out small technical differences in our requirement for prompt action by the regulators.

I think what we have is a very much-improved version of title I.

Mr. LAFALCE. Mr. Chairman, I thank the gentleman.

Mr. WYLIE. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I neglected to mention in the list amendment No. 19 offered by the gentleman from Massachusetts [Mr. FRANK] and myself, which establishes an affordable housing disposition program for the FDIC, similar to that of the RTC. This creates a demonstration program for 3 years and it caps at $30 million the amount of money that the FDIC can lose on the sale of property under the programs during that period to time. I think that is an important amendment. It is also included in the en bloc amendments, and I did not hear the chairman mention it. I wanted to be sure that it was mentioned.

I would like to clarify several aspects of the proposed FDIC Affordable Housing Disposition Program. As I have already discussed, this program would sunset after 3 years, and would have a cost limitation of $30 million for the 3 years. The $30 million would be the limit on the amount of losses which could be realized by the FDIC on the sale of properties in the program. A loss would be assessed on the difference between the realizable disposition value of a property and the final sales price on the property. Realizable disposition value would be, as determined by the FDIC, the estimated sale price on a property that the FDIC could reasonably be expected to obtain if the property were sold outside the program. It is the intent of this amendment that the FDIC use the appraised value of a property as the realizable disposition value of a property unless the FDIC can develop a more accurate method of valuing properties in the program. Moreover, part of the assessment of losses should include any special holding costs attributable to the Affordable Housing Program, such as where a property is held for a longer period to time than would occur if the property were sold outside the program. It is also not expected that the FDIC should have to develop any valuation system which is overly administratively burdensome and costly.

Moreover, I believe there may be some technical issues concerning how certain requirements of this program will operate in conjunction with certain requirements of the HOPE Single Family and HOPE Multifamily Housing Programs. I would like to facilitate the purchase of eligible properties under the FDIC Affordable Housing Program to the maximum extent possible for use in conjunction with these HOPE programs. I hope to address these technical issues at conference.

For the information of my colleagues, the FDIC Affordable Housing Program would be similar to the RTC Affordable Housing Program with the following significant characteristics:

First, single-family and multifamily properties. Eligible single-family and multifamily properties could not exceed the appraised value limit set for properties in the RTC Affordable Housing Program. This limit corresponds to the FHA single-family and multifamily insurance limits—without regard to high cost areas. For example, the appraised value of single-family properties in the FDIC Affordable Housing Program could not exceed $67,500.

Second, limitation on the program. The FDIC Affordable Housing Program would sunset after 3 years. The program would have a cost limitation of $30 million for the 3 years. This means the FDIC Affordable Housing Program will cease after 3 years or when the $30 million cap is reached, whichever occurs first. The $30 million would be the limit on the amount of losses which could be realized by the FDIC on the sale of properties in the program. A loss would be assessed on the difference between the realizable disposition value of a property and the final sales price on the property. Realizable disposition value would be, as determined by the FDIC, the estimated sale price of a property that the FDIC could reasonably be expected to obtain if the property were sold outside the program. It is intended that the FDIC use the appraised value of a property as the realizable disposition value of a property until a better valuation system is developed.

Third, implementation date. The FDIC would be required to implement the Affordable Housing Program within 6 months of enactment, subject to a determination that there are sufficient funds to compensate the FDIC for any losses resulting from the sale of properties under this program.

Fourth, right of first refusal. The right of first refusal in the single family component of the program would be 6 months, as compared with the 3 month right of first refusal under the single family component of the RTC Affordable Housing Program.

Fifth, multifamily properties—aggregation rule. This amendment would also revise the RTC aggregation rule for purposes of the FDIC Affordable Housing Program. Aggregation means that the purchaser of more than one multifamily project can aggregate the low-income occupancy requirements among the buildings purchased, as opposed to meeting the requirements on a building-by-building basis. This amendment would, among other things, provide a preference for purchasers who do not aggregate, and require for all multistructure purchases that at least 10 percent of the dwelling units in each building be reserved for low-income families.

Sixth, bulk transactions under HOME. This amendment would provide for bulk transactions to participating jurisdictions under the HOME Program.

Seventh, liability. This amendment would provide that the FDIC is not liable to any depositor, creditor, or shareholder of a failed institution in receivership, or claimant against the institution, because the disposition of assets of the institution under this amendment affects the amount of return from the assets.

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Mr. GONZALEZ. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. KANJORSKI] for the purposes of a colloquy.

Mr. KANJORSKI. I thank the chairman for yielding this time to me; and since our time on the en bloc amendment is severely limited, I will insert the full text of my statement on my amendment at the end of these remarks.

Mr. Chairman, I would like to congratulate the gentleman from Texas [Mr. GONZALEZ] and the gentleman from Ohio [Mr. WYLIE] for recognizing that the BCCI hearings held by the committee and put forth by the gentleman from Texas were done for two purposes: First, to find what happened, and, second, to see what we could do to further legislation to ensure that this does not happen again.

This amendment we have put together accomplishes three things. First, it recognizes that activities such as those at BCCI and First American occurred because there were gross, monumental conflicts of interest, where attorneys were not only representing the bank in their capacity as private individual attorneys to give advice, but they were also members of the board and in fact chairman and president of First American. It raised the question of what information would flow to the stockholders and to the regulators and to the other directors of the board that these individuals picked up in their private representation of the real owners of BCCI.

We close that loophole by declaring that to be a conflict of interest and barring outside legal counsel and outside accountants from serving on boards. We close the loophole, and do so for all banks and all financial institutions, including foreign banks doing business in the United States.

The second problem we resolve with this amendment is that never again will a board of directors appear before a congressional committee as First American's board did and tell us that they do not know who owns their bank. It was almost insulting to the committee, to the American people and even to those members of that board of directors, that they did not know who owned them, who put them there, who controlled the bank, because there was no information or disclosure required under our laws to indicate who the actual owners of the financial institution or their various holding companies are.

The amendment closes that loophole.

Third and finally, we disallow insider control of banks in this country. No longer will the majority of a board of directors be allowed to be management employees of the bank whose judgment is affected by their employment status. Instead we require that a majority of the board of directors be made up of outside directors.

These are just a few of the lessons we learned from our hearings on BCCI, but they are among the most important lessons of that experience.

I congratulate the ranking minority member, the gentleman from Ohio [Mr. WYLIE] for seizing upon this amendment and agreeing that it will close these loopholes. I congratulate my chairman, the gentleman from Texas [Mr. GONZALEZ] for a job well done in holding the BCCI hearings.

Mr. Chairman, I urge my colleagues to support the en bloc amendments because by adopting them we can truly say we have had some reform of the conflict-of-interest questions, disclosure of ownership questions, and insider dealing questions that we discovered in our recent hearings on the sordid BCCI scandal.

Mr. Chairman, I appreciate the support of the chairman of the committee, the gentleman from Texas [Mr. GONZALEZ], and the ranking Republican, the gentleman from Ohio [Mr. WYLIE] for this important amendment to eliminate three major problems brought out in the Bank of Credit and Commerce International [BCCI] scandal. Their leadership has been instrumental in our committee's investigation of BCCI.

When the President announced his savings and loan reform plan in 1989 his watchwords were "never again." The same watchwords apply to the BCCI scandal, which is why I offer this amendment to title I of H.R. 6, to implement three important BCCI related management and conflict-of-interest reforms.

The first problem this amendment solves is the conflict-of-interest problem. A number of the participants in the BCCI scandal wore too many hats and served too many masters.

Clark Clifford and Bob Altman were like the "Cat in the Hat." One moment they wore the hats of chairman and president of First American, the next moment they wore the hats of advisers to BCCI, then they switched back to their hats as board members of First American or one of its many holding companies. Their conflicts of interest were monumental.

Outside legal counsel and accountants are supposed to offer independent, disinterested advice. They cannot do so if they also serve on the board of directors. My amendment guarantees their independence and prevents conflicts of interest by prohibiting outside counsel and accountants who receive compensation from a depository institution or holding company from serving on its board of directors.

Under the BCCI reform amendment, never again will an individual who is supposed to be providing independent legal or accounting advice be allowed to also sit on the board of directors. New York University law professor, Stephen Gillers, has said of this practice:

> A lawyer's judgment is clouded by his participation on the board. Lawyers see a seat on the board of directors as a way of keeping business. It means they are less likely to be fired as counsel. That's why they do it.

My BCCI reform amendment will prevent this gross conflict of interest.

I should note, Mr. Chairman, that my amendment does not prohibit outside counsel or accountants from sitting in on board of directors meetings, or from participating in discussions at board of directors meetings. My amendment does not even prevent them from being paid as professionals for their attendance at board meetings. It simply says that they should not vote at board meetings. We want their advice at board meetings to be truly independent, dispassionate and objective, and not clouded by other fiduciary responsibilities or relationships.

It is my understanding, Mr. Chairman, that the code of ethics for accountants already bars them from serving on the boards of institutions they audit.

The second problem my BCCI amendment solves is the "We didn't know" problem. The board of directors of First American claimed not to know who really owned the institution and even testified that this information was deliberately withheld from them. They were the original "Hear no evil, see no evil, speak no evil" gang. It is intolerable that First American's board did not know BCCI controlled their bank, did not know who owned their bank, and did not know why they did so much business with BCCI.

Under the BCCI reform amendment, never again will the board of directors of a bank or bank-holding company be able to claim as First American's did that they did not know who owned or controlled them. My amendment requires that the names of major stockholders of financial institutions and holding companies be provided to boards of directors. It also requires that directors be notified of any proposed change in control of either their institution, or any holding company which controls it.

The third problem my BCCI reform amendment addresses is the problem of insider control. First American and its board of directors were insulated from BCCI by multiple layers of holding companies in which bank insiders Clifford and Altman controlled, and in some cases were, a majority of the board. Just as a financial institution should have independent, outside legal, and accounting advice, it should also be controlled by individuals whose livelihood and employment is not dependent on the institution. My amendment prohibits insiders from controlling a board of directors.

Under the BCCI reform amendment, never again will bank insiders like Clifford and Altman be able to control a bank or bank-holding company board. At the Banking Committee's BCCI hearing Chairman GONZALEZ summed up the situation aptly when he declared, "all too many directors bring to the table only one thing—a huge rubber stamp with one word 'yes' for all management decisions." Banks have boards of directors in order to provide shareholders with an independent review of management decisions. That independence is thwarted if management has a majority of votes on the board. My BCCI reform amendment requires that a majority of each board be made up of nonmanagement individuals.

Mr. Chairman, this package of management and conflict-of-interest reform amendments has been put together with the support of the bipartisan leadership of the House Banking Committee and I urge its adoption.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Rhode Island [Mr. MACHTLEY].

Mr. MACHTLEY. I thank the gentleman for yielding to me.

I would like to take this opportunity to thank the gentleman from Ohio [Mr. WYLIE], the ranking minority, Republican member, and I thank, as well, the chairman, the gentleman from Texas [Mr. GONZALEZ].

They have been superlative in working in a bipartisan manner, looking at our State of Rhode Island, where, with the efforts of my colleague, JACK REED, and myself, trying to solve what has been a most extraordinarily difficult problem.

In our State of Rhode Island, we had on January 1, 45 State credit unions and banks closed. This was because State bank and credit unions had a State-affiliated insurance program which was no longer solvent.

This affected almost 294,000 accounts in our State, $1.3 billion of assets were frozen.

Some 10 months later, we still have the bulk of these people without their money. This is perhaps the worst banking crisis in terms of the duration and the magnitude of States' population that has ever occurred in the United States.

We, at the Federal level, have been trying to help our State work its way out of this problem with the enormous help of the Committee on Banking, Finance and Urban Affairs, the gentleman from Rhode Island [Mr. REED] and I working together in a bipartisan way. We have an amendment, a technical amendment to the bank bill which provides a $180 million loan guarantee for our State.

Our State was one of the 13 original colonies. We have been here for a long time. We intend to work our way out of this problem ourselves to pay to our depositors the moneys which are owed. But we need a Federal guarantee, as Chrysler and New York did, so that we, in fact, can go to the bank and borrow money at a cheaper interest rate.

I suppose if there is such a thing as an economic Third World state, perhaps Rhode Island might fall into it. I have constituents come up to me on any given day and tell me problems of tuition moneys which are frozen, life savings which are frozen, elderly who have actually contemplated suicide because of the crisis.

I urge my colleagues to vote for not only this amendment but the other technical amendments, which are en bloc. Our States and communities need some assistance. This is, in fact, a most important resolution. Although Rhode Island may not have a strong political delegation in numbers, I think we have worked out a strong bipartisan amendment which will appeal to common sense and, I hope, your compassion.

Mr. GONZALEZ. Mr. Chairman, I yield 2½ minutes to the gentleman from Rhode Island [Mr. REED] and I want to thank the gentleman for his total support. The RECORD should show that he gave us the vote on the rule. I want to thank him very much.

Mr. REED. Mr. Chairman, I want to thank the chairman, the gentleman from Texas [Mr. GONZALEZ]. The people of Rhode Island are deeply grateful for what the gentleman has done. He has made their cause his own cause. He witnessed their suffering, he came forward to Rhode Island and gave them help, for which I thank the gentleman.

I would also like to thank the ranking minority member of the Committee on Banking, Finance, and Urban Affairs, the gentleman from Ohio [Mr. WYLIE], for his strong support, and I thank my colleague, the gentleman from Rhode Island [Mr. MACHTLEY], for his efforts to help Rhode Island. Also I would like to thank the gentleman from Kentucky [Mr. HUBBARD], the gentleman from Massachusetts [Mr. FRANK], and the gentleman from Wisconsin [Mr. KLECZKA], who helped us move this important measure along.

Mr. Chairman, the amendment today makes technical corrections to the Federal Loan Guarantee Program for Rhode Island. It will allow the State more flexibility and will ensure that there is no significant risk to the Federal Government.

On January 1 of this year, our Governor closed 45 banks and credit unions when the State's private insurance fund failed; 11 months later, 13 institutions are still closed, holding nearly $1 billion in deposits, with 125,000 accounts.

Mr. Chairman, our actions here today can bring some relief to hard-working families in Rhode Island who have never failed to support and defend this great country. In the face of crisis, the people of Rhode Island are struggling to raise their families, to educate their families. Our seniors are facing the uncertainty of old age, plagued by the turmoil of this great financial crisis.

Today we must stand with them. They deserve our total, absolute support as they struggle to work themselves out of this great crisis.

Mr. Chairman, I urge all of my colleagues to support this measure, to support Rhode Island, to help us move forward again.

Today the House continues consideration of H.R. 6, the Financial Institutions Safety and Consumer Act of 1991. The purpose of this comprehensive bill is to ensure the safety and soundness of our financial system in this country. Included in this bill is section 651 of title VI, authorizing $180 million in Federal loan guarantees to my State of Rhode Island.

This provision is the result of 10 months of work on the part of the Rhode Island congressional delegation, Chairman GONZALEZ, Representative HUBBARD, Representative FRANK, Representative KLECZKA, and others on the Banking Committee who recognized the urgent need of my State.

On January 1, 1991, the Governor of Rhode Island declared a banking emergency and closed 45 credit unions and banks when the State's private insurance fund, RISDIC, failed. This action froze over 350,000 personal accounts and $1.7 billion in deposits. Almost 11 months later, 13 institutions remain closed holding close to $1 billion in frozen deposits.

Never before has such a large percentage of a State's population been affected by a banking crisis, not even during the Great Depression.

The State has assumed responsibility for this crisis, and has taken the initial necessary steps to return savings to the depositors. However, this crisis is taking place within the context of a devastating regional recession, and the State needs assistance in fulfilling its obligations.

This credit union debacle has exacerbated the State's fiscal crisis. Last year, the State faced the highest percentage deficit of any State in the country and balanced its budget through a series of drastic cutbacks and deferments. This fiscal year, the State will face an estimated $30 to $40 million revenue shortfall and could face a deficit of $200 million by fiscal year 1993. Between January 1, 1990 and January 1, 1991, Rhode Island lost nearly 10,000 jobs. Today, Rhode Island's unemployment rate has reached 9.6 percent. There was a 56-percent increase in the number of bankruptcies filed between March 1990 and March 1991. In the past 2 years, Rhode Island has fallen to 48th among the 50 States and the District of Columbia in job growth.

In this unmatched economic situation, it is incumbent that the Federal Government stand behind Rhode Island as it squarely faces these daunting challenges.

The hard-working citizens of Rhode Island have never been a burden to the Federal Government. They have paid their dues. They have contributed $107 million to bail out the Nation's failed thrifts, even though not one penny has been used to bail out a failed Rhode Island thrift. The Federal Government has assisted Chrysler and New York City in their time of need, and the people of Rhode Island are now asking the Government not to turn its back; they are asking for assistance at no cost to the taxpayer which will help the State fulfill its responsibilities.

However, the most compelling need for Federal assistance is not in the above statistics, but in the human suffering behind these statistics. My office continues to receive hundreds of pleas for assistance, and in many cases, the problems grow worse as weeks pass without access to deposits and people are not able to get on with their lives.

One of my constituents is a small grocery store owner who has all of his business receipts tied up in one of the closed credit unions. He is now struggling to meet his payroll, and may be forced to close his business. Another is 100 percent disabled and now, without access to his savings, supports himself and his family on the $393 he receives each month. He received food stamps for 1 month, after which he was deemed no longer eligible due to the total amount of his assets—assets which are still frozen in a closed financial institution and inaccessible.

There are many, many more desperate situations. Thousands of senior citizens, citizens who have put their trust in their neighborhood institution for many years, have arrived at their golden years only to find that they have been denied access to their lifesavings.

Students who have been saving for their futures have had to now put their dreams on hold.

Section 651 was included by Chairman GONZALEZ in response to hearings held in Washington, chaired by Representative HUBBARD, and a hearing held in Rhode Island by Chairman GONZALEZ and the Banking Committee which was attended by hundreds of depositors. Chairman GONZALEZ, Representative FRANK, Representative KLECZKA, and Representative MACHTLEY were present at the Rhode Island hearing and can tell of the pain and anguish of those in the audience and of the witnesses who spoke so eloquently of their frustration and hardships. Loan guarantee assistance was later passed unanimously by voice vote during the markup of H.R. 6 in the Banking Committee. The Senate Banking Committee followed with similar legislation.

The amendment which I offer today with my colleague from Rhode Island, Mr. MACHTLEY, includes technical changes to clarify our original intent that these Federal loan guarantees will pose no significant financial risk to the Government and will provide increased flexibility for the State. These changes will give the State the authority to pledge State assets as collateral to secure the guarantee in addition to existing authority to pledge assets of the Depositors Economic Protection Corporation [Depco] and revenue from the increased State sales tax. It will also require that the loans secured by the guarantee receive an investment grade rating of AAA, highest, or AA, next highest, or receive an assessment from the Secretary of the Treasury that the borrowing is fully collateralized.

On behalf of myself and the people of Rhode Island, I would like to once again thank Chairman GONZALEZ for his leadership and work on behalf of our small State. At a time when Rhode Islanders were desperately searching for assistance, Chairman GONZALEZ came forward and offered hope to hundreds of thousands of depositors. His immediate recognition of the magnitude of this crisis and the need for a Federal response is proof of his unyielding dedication to working Americans and their families. His understanding, compassion, and wisdom are forever indelibly inscribed in the hearts of Rhode Islanders.

I would also like to thank the members and staff of the House Banking, Rules, and Budget Committees for their assistance with this amendment and for recognizing the crisis situation which persists in Rhode Island. In particular, Rick Maurano, Kelsey Meeks, and Ed Brigham were indispensable. I would also like to thank my staff, particularly Ronnie Kovner, for their extraordinary effort.

In closing, let us not forget that our actions here today are in response to the demands of thousands of hard-working Rhode Islanders who have never hesitated to support and defend this great country. In the face of crisis, they are struggling to raise families; they are toiling to educate their children; some are facing the uncertainty of old age plagued by the disquieting turmoil of these financial failures. All of them depend on us.

They ask now, through their Representatives in this House, that our Federal Government stand with them in this hour of crisis. They are worthy of no less. I ask you to support this amendment and to support H.R. 6, as so amended.

Mr. GONZALEZ. Mr. Chairman, I yield the balance of our time to the gentleman from Massachusetts [Mr. FRANK].

The CHAIRMAN. The gentleman from Massachusetts [Mr. FRANK] is recognized for 1½ minutes.

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the chairman, particularly for his leadership in this portion of the bill. I was delighted to join him and my Rhode Island colleagues in a hearing which, characteristically of the chairman's dedication, we had on Memorial Day weekend in Rhode Island on this question of the bank and credit union situation. It is to the credit of the chairman and the ranking minority member and the two Members from Rhode Island that we have come up with, I think, a very reasonable solution to a tough problem.

So I am delighted that that is in here.

I am also grateful to the chairman and the ranking minority member because we also have in here, consistent with the budget agreement, a proposal to make affordable housing available. The FDIC has become a landlord and will become a landlord of even more residential housing, a matter in which they do not have a great deal of expertise.

□ 1410

We have built on the model that we have with the Resolution Trust Corporation, and we believe that out of this that there will become a movement toward some low-income housing in particular, and this is something that all of us on the committee have talked to the ranking minority members of both the full committee, and the Housing Subcommittee, and the chairman, and others. We have pointed out that with the important goals of home ownership one of the best ways to do it is to take these vacant properties that are now owned by the Federal Government. This is something that the Secretary of HUD cares about. This is probably the best and most efficient way to do that goal of low-income home ownership.

So, I am very grateful for my friends on the other side and the leadership of the chairman for including this.

Mr. JOHNSON of Texas. Mr. Chairman, I have an amendment to H.R. 6, the Deposit Insurance and Regulatory Reform Act.

Section 141(e) of H.R. 6 requires that before an institution can receive FDIC approval for open assistance, the FDIC must determine that the board of directors of the troubled institution has been competent and has complied with applicable laws, rules, and supervisory directives and orders.

Section 143 of the bill, however, requires that the FDIC remove the board of directors of any institution upon receiving open assistance. This section does allow the FDIC to give individual members of the board of directors a waiver from the automatic removal provisions, if it can be shown that such a waiver would lessen the risk to the corporation posed by the insured depository institution receiving assistance.

Unfortunately, by limiting the scope of the waiver to proving only that an individual director will lessen the risk to the FDIC, H.R. 6 provides no incentive to Federal regulators to retain knowledgeable, competent, and honest bank directors. If a board must be certified as competent and honest to get open assistance in the first place, then it only makes sense that this criterion should also be used when considering a waiver to allow board members to remain in their positions.

My concern is shaped by the events that occurred in the Southwest. In many instances, despite the best efforts of competent officers to keep their banks solvent, their institutions failed, not because of mismanagement, but simply due to the magnitude of the depression that hit the Southwest in the 1980's.

The desire of many Federal bank supervisors to clean house when they took over an institution, often didn't separate the good from the bad. Instead, many smart, honest bank officers—those who knew their institution best—were turned out, without regard to their ability to facilitate the resolution process.

We now see other parts of the country, especially the Northeast, facing an experience similar to the one that befell my home State of Texas. I am hopeful that my amendment will, in the future, give the FDIC better guidance in keeping qualified bank officers in positions where they can help resolve an institution, and thus save the taxpayers' and depositors' money.

Let me be clear—this amendment does not provide an automatic waiver to this section. The FDIC would still have broad authority to deny anyone a waiver from the removal provision.

Anyone who has been involved in any illegal or obviously unsafe practice should not be allowed to continue to manage or direct bank functions. My amendment simply asks the Federal regulators to take into account the actions of responsible and honest bank directors. It will not weaken Congress' intent to keep unfit persons out of our financial institutions.

Mr. WYLIE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Texas [Mr. GONZALEZ].

The amendments en bloc were agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 102-281.

Mr. NEAL of Massachusetts. Mr. Chairman, I have an amendment at the desk, and I ask that it now be considered.

The CHAIRMAN. Is the gentleman from Massachusetts the designee of the gentleman from New York [Mr. SCHUMER]?

Mr. NEAL of Massachusetts. Pardon?

The CHAIRMAN. The rule makes in order amendment No. 2 to be offered by the gentleman from New York [Mr. SCHUMER]. Is the gentleman the designee?

Mr. NEAL of Massachusetts. No, I am not.

My understanding was, Mr. Chairman, that my amendment was up next. That is what I was told earlier.

The CHAIRMAN. The Chair's information is that it is now in order to consider amendment No. 2.

Mr. WYLIE. That is correct, Mr. Chairman. That is according to the rule.

PARLIAMENTARY INQUIRY

Mr. GONZALEZ. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. GONZALEZ. Mr. Chairman, I believe my impression under this rule is that we have to complete title I, and this is the last amendment for title I.

The CHAIRMAN. The Chair would advise the gentleman from Texas [Mr. GONZALEZ], the chairman of the Committee on Banking, Finance and Urban Affairs, that the bill is considered as read for amendment at any point, and the Chair is constrained to follow the order of amendments as they were printed in the report, according to the rule. The only amendment in order right now is amendment No. 2, and that is to be offered by the gentleman from New York [Mr. SCHUMER] or his designee.

Mr. GONZALEZ. Mr. Chairman, I ask unanimous consent that the gentleman from Massachusetts [Mr. NEAL] be recognized on his amendment out of order.

The CHAIRMAN. The Chair would advise the gentleman from Texas [Mr. GONZALEZ] that such unanimous-consent requests can be made only in the House, that the Committee of the Whole, even by unanimous consent, cannot so modify such a rule of the House.

AMENDMENT OFFERED BY MR. SCHUMER

Mr. SCHUMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SCHUMER:

Page 330, after line 5, insert the following new section (and redesignate the succeeding section and conform the table of contents accordingly):

SEC. 411. RESTRICTIONS ON ACTIVITIES OF INSURED DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 38 (as added by section 131 of this Act) the following new section:

"SEC. 39 ACTIVITIES OF INSURED DEPOSITORY INSTITUTIONS.

"(a) FLOATING INTEREST RATE CAP ON DEPOSITS.—

"(1) LEVEL 3, 4, AND 5 INSTITUTIONS.—No insured depository institution that is a level 3, 4, or 5 depository institution under section 38(b) may offer or pay a rate of interest on any deposit accepted by such institution which exceeds 105 percent of the prevailing rate of interest on securities issued by the Secretary of the Treasury under chapter 31 of title 31, United States Code, of comparable maturity at the time such deposit is accepted, as determined in accordance with paragraph (4).

"(2) LEVEL 1 AND LEVEL 2 INSTITUTIONS.—No insured depository institution that is a level 1 or level 2 depository institution under section 38(b) may offer or pay a rate of interest on any deposit accepted by such institution which exceed 105 percent of the greater of—

"(A) the prevailing rate of interest on securities issued by the Secretary of the Treasury under chapter 31 of title 31, United States Code, of comparable maturity at the time such deposit is accepted, as determined in accordance with paragraph (4), or

"(B) the average of the rates of interest on a group of securities described in paragraph (3), as determined in accordance with paragraph (4).

"(3) GROUP OF SECURITIES DESCRIBED.—For purposes of paragraph (2)(B), a group of securities is described in this paragraph if—

"(A) 50 percent of such group consists of securities issued by the Secretary of the Treasury under chapter 31 of title 31, United States Code, which are of comparable maturity at the time the deposit is accepted by such institution;

"(B) 25 percent of the group consists of commercial paper or debt securities which—

"(i) have received the highest investment grade rating by at least 1 independent and nationally recognized statistical rating organization, and

"(ii) are of comparable maturity at the time the deposit is accepted by such institution; and

"(C) 25 percent of the group consists of obligations of any investment company (as such term is defined in section 3(a) of the Investment Company Act of 1940) that is treated as a money market fund for purposes of regulations issued by the Securities and Exchange Commission under that Act.

"(4) DETERMINATION OF MAXIMUM RATE.—The Corporation shall—

"(A) prescribe, by regulation, procedures for determining the maximum rates of interest payable on deposits for purposes of paragraph (1), including—

"(i) a procedure for determining such rate in case of a deposit the period to maturity of which, at the time of the deposit, is not comparable to the period to maturity of any security referred to in paragraph (1), (2), or (3); and

"(ii) the frequency with which such maximum rate shall be redetermined by the Corporation for purposes of paragraph (1), (2), (3);

"(B) determine, in accordance with subparagraph (A), the maximum rates of interest payable under paragraph (1), (2), or (3) during any period; and

"(C) publish each such rate before the beginning of the period to which maximum rates apply.

"(b) LENDING LIMIT.—

"(1) IN GENERAL.—The aggregate amount of loans and extensions of credit by any insured depository institution to a single borrower (including any affiliate of such institution) which is outstanding at any time may not exceed the amount which is equal to the sum of—

"(A) 15 percent of the amount of tier 1 capital of the institution which does not exceed

$100,000,000, as determined pursuant to the risk-based capital standard applicable to the institution; and

"(B) 6 percent of the amount of tier 1 capital of the institution which exceeds $100,000,000, as determined pursuant to the risk-based capital standard applicable to the institution.

"(2) EXEMPTION FOR INSTITUTIONS WITH TIER 1 CAPITAL OF LESS THAN $100,000,000.—Paragraph (1) shall not apply to any insured depository institution the tier 1 capital of which does not exceed $100,000,000.

"(c) NET EXPOSURE LIMIT.—In accordance with regulations which the Corporation shall prescribe, no insured depository institution may incur or maintain, at any time, any net exposure in connection with any trading activity in an amount which is greater than the amount is equal to 5 percent of the tier 1 equity capital of the institution, as determined pursuant to the risk-based capital standard applicable to the institution.

"(d) WAIVER AUTHORITY FOR PERIODS OF ADVERSE ECONOMIC CONDITIONS.—

"(1) IN GENERAL.—The Corporation may, by regulation or order, waive the application of any provision of this subsection to any insured depository institution if the Corporation determines that—

"(A) the waiver of such provision with respect to such institution is appropriate on the basis of adverse economic conditions (such as recessions, downward market cycles, or a restriction in the availability of credit); and

"(B) the grant of the waiver would pose no substantial risk to the stability of—

"(i) any insured depository institution subject to the waiver; or

"(ii) any deposit insurance fund.

"(2) MAXIMUM WAIVER PERIOD.—

"(A) IN GENERAL.—Any waiver granted pursuant to any regulation prescribed or order issued under paragraph (1) shall cease to apply at the end of the 90-day period beginning on the effective date of the regulation or order.

"(B) NO LIMITATION ON ADDITIONAL WAIVERS.—The Corporation may grant an additional waiver under paragraph (1) after the end of any 90-day period referred to in subparagraph (A) in connection with a prior grant of a waiver if the Corporation makes the determination required under paragraph (1) with respect to the grant of each such additional waiver.

"(e) 8-YEAR TRANSITION PERIOD.—The Corporation shall prescribe regulations establishing a schedule under which—

"(1) the limitations established under this section shall be implemented in such number of phases as the Corporation determines to be practicable and appropriate; and

"(2) full compliance with such limitations shall be required by January 1, 2000.".

The CHAIRMAN. Under the rule, the gentleman from New York [Mr. SCHUMER] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Mr. WYLIE. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Ohio [Mr. WYLIE] will be recognized for 15 minutes.

PARLIAMENTARY INQUIRY

Mr. SCHUMER. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. SCHUMER. The point of order, Mr. Chairman, is, as I understood it, we were doing the amendments to title I and then moving on to title IV. This amendment is in title IV. We have not completed the amendments in title I.

Mr. Chairman, this breaks the whole train of what we were trying to do, and so my point of order is: What is going on here?

The CHAIRMAN. The gentleman from New York has stated a parliamentary inquiry, not a point of order.

The Chair is constrained by the rule. The rule makes the bill read for amendment at any point, not by titles, and specifically orders the amendments. The gentleman from New York [Mr. SCHUMER] has amendment No. 2. His amendment is now in order.

Mr. SCHUMER. Mr. Chairman, I ask unanimous consent just so that we could do all of title I together, and then all of title IV together, which is what, as I understood it, was the intent of the Committee on Rules, to first finish title I, the amendments thereto, and then move to title IV.

The CHAIRMAN. As much as the Chair might want to help the gentleman from New York [Mr. SCHUMER], the Committee of the Whole is constrained by the rule, and such a unanimous-consent request is out of order in the Committee of the Whole. It must be made only in the House.

PARLIAMENTARY INQUIRY

Mr. SCHUMER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. SCHUMER. Mr. Chairman, may I ask unanimous consent for the Committee of the Whole to rise? Then we can go into the full House, and then I can ask unanimous consent to do this the way it was intended. Would that be parliamentarily a correct thing to do?

The CHAIRMAN. The gentleman is correct. A motion could be made for the Committee of the Whole to rise, at which point, if adopted, a unanimous-consent request could be made in the House.

Mr. SCHUMER. OK. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from New York [Mr. SCHUMER].

The motion was rejected.

Mr. SCHUMER. OK; we will debate the amendment in a ridiculous order.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, the choices that we are going to make in the next few days are truly monumental. They could determine the success or failure, not only of our banking system, but of our economy and our international competitiveness for years to come. We have a golden opportunity to really change the system and strengthen our entire banking and financial services world.

But to do that, my colleagues, we must address the fundamental weaknesses of the banking system. The basic problem that our banking system and our thrift system has faced, my colleagues, is a simple one. We all know it, and the problem is very simply that insured deposits have been transmogrified. Their original and fundamental purpose, as devised by Hoover and signed into law by Roosevelt, was very simple. It was to protect the depositors so that when the average person put his or her money in a bank, they knew it would be safe. In the late 1970's and throughout the 1980's our financial system experienced deregulation, and we did not change the deposit system, and, as a result, we were insuring, we, the taxpayers of America, were insuring crazy, and risky and wild investments in the S&L industry to an enormous extent, and now in the banking industry, as well.

□ 1420

We should not be insuring huge bridge loans to LBO's. We should not be insuring equity investments in real estate. We should not be insuring foreign currency trading and trading in the latest scam that has not yet brought banks trouble but will, mark my words, in the next few years, derivatives, which is betting on futures. Yet we do it.

No rational system could ever be designed so that insured deposits should be used for those activities, and yet our system does it. There is only one way to make our banking system sound, and that is to say once and for all that insured deposits should be used for low-risk, traditional banking activities, and then if our large financial institutions wish to invest in high-risk activities, they do not use the depositors' money, they do not use insured dollars, but they go to the markets for money. Our banks are sick and weak, not all of them, but our big banks are, by and large.

The CHAIRMAN. The time of the gentleman from New York [Mr. SCHUMER] has expired.

Mr. SCHUMER. Mr. Chairman, I yield myself 1½ additional minutes.

Mr. Chairman, when they ask for money, they just take the depositors' money and they do not do anything else with it.

Mr. Chairman, the same problem that occurred with the S&L's that cost us $500 billion is now occurring in the banking system. I support the amendment sponsored by our worthy chairmen, Chairman GONZALEZ and Chairman DINGELL, but those are firewalls, and firewalls simply slow the fire down, they do not put it out. Only the core bank will put the fire out, because the core bank is the only amendment on the floor that says we will not do what we did during the S&L crisis, and that is use insured dollars for risky activities.

It is no wonder that both people on the left and right support core bank. ACORN and the National Taxpayers, the Wall Street Journal, Forbes magazine, and then other publications far more liberal, support core bank because they know this is the only answer.

Mr. Chairman, we took some fateful votes in 1980 and 1982 on the S&L crisis. There was only a small minority of Members who were opposed to amendments that basically do the same thing as this bill. Let us not make the same mistake now. Let us learn the lessons of history. Do not let the big banks bamboozle us with false arguments. The only way to prevent the S&L crisis from occurring in our banking system is for the core bank proposal to be enacted into law.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Ohio [Mr. WYLIE] is recognized for 15 minutes.

Mr. WYLIE. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I know how hard the gentleman from New York [Mr. SCHUMER] has worked on this amendment, and I respect him for that. I respect him for the good judgment he has as a general proposition on banking legislation, but I must oppose this amendment at this time.

We do not know what consequences this amendment might have on the banking system and indeed on our economy as a whole. To quote Paul Volcker, the former Chairman of the Federal Reserve, on including core banking in this banking reform legislation, he says: "So important an issue, in my judgment, cannot adequately and responsibly be resolved as a late attachment to already complicated and needed proposed legislation."

I have just been delivered a letter from the Secretary of the Treasury, Mr. Nicholas Brady, and I will just read it in part, bringing out the best portions of it:

This amendment, while well-intentioned, is an untested proposal that has not been thoroughly studied. * * *

This amendment would reimpose interest rate controls on all bank deposits—not just insured deposits—and would drastically lower the legal limit on the amount a bank can lend to any one borrower. The proposal, which first emerged less than six months ago, is intended by its proponents to prevent banks from making hundreds of billions of dollars of loans that they currently make. We do not believe that Congress should enact such a proposal at a time when Congress and the Administration are struggling to address the credit crunch that has affected small businesses in many regions of the country.

Now, here is what some other regulators think. Gerald Corrigan, the president of the New York Fed, wrote: "I am very dubious that the approach would provide the desired result." He feels it will cause massive disintermediation of deposits and will seriously hinder credit availability. Mr. Corrigan also questions whether interest rate caps can work.

Timothy Ryan, the Director of the OTS, states: "Although some parts of the core banking proposal may be useful in controlling the risks assumed by depository institutions, I am extremely concerned that it may also have serious unintended consequences."

Robert Clarke, the Comptroller of the Currency, and Paul Volcker are both skeptical and urge caution in this regard.

I think that the core banking proposal takes us into unchartered waters.

Mr. Chairman, I see the gentleman from Iowa [Mr. LEACH] is on his feet, and I yield to him.

Mr. LEACH. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, this is the most interesting proposal that has been brought to Congress this year in banking, but despite its great level of interest, it is very dangerous. It would take over $1 trillion out of the banking system at a time when the economy needs more credit. It would impel our larger banks to become more trading institutions than lending institutions. It is good for some of the financial institutions in New York and certainly for the securities industry, but I doubt that it is good for the economy at large or for this country. This Congress should be concerned about the economy and not particular institutions or particular areas where some kinds of banks are predominant.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would just like to clarify a couple of points. In terms of $1 trillion leaving the insured deposit system, I do not know of any estimate under the new numbers that we have here that come that close.

In reference to the point of the gentleman from Iowa, this is not aimed at specific institutions. In fact, most of the larger money-center New York banks are vehemently opposed to this amendment, as the gentleman well knows. Most of the large banks are opposed because they do not want to take the necessary medicine to make them better. But the only thing I say to the gentleman is that we should look at what terrible shape they are in now. Going around and nibbling around the edges is not going to make them better. They need strong medicine, and only core banking provides it.

Mr. WYLIE. Mr. Chairman, I would say in response to the gentleman that when Mr. Lowell Bryan first came before us with his estimate of what the core banking concept might do, he said that the disintermediation might run as a high as $1 trillion. I understand some modifications have been made in the concept since then. I appreciate the fact that these modifications have made, but that just adds to the fact that I think right now it is a little bit premature. I think we need to study the issue a little more, and I think that is the direction in which the gentleman from Iowa [Mr. LEACH] was heading.

Mr. LEACH. Mr. Chairman, if the gentleman will yield further, I appreciate what the gentleman was saying.

Let me make one final comment to clarify what the gentleman has stated. The institutions it would help would in the securities industry in New York and several of the largest banks. But let me go further. What this would do is, it will cause banks to change their lending biases and move away from almost all risks.

One of the great things in our economy today is that we are trying to propel our credit, not retard credit. This is not the time to play with the banking system.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. WYLIE] has expired.

Mr. WYLIE. Mr. Chairman, I yield myself 1 additional minute.

Mr. Chairman, I would say that the National Association of Realtors have just sent me a letter, and they strongly oppose this amendment They believe, as they say in their letter, that there could be as much as $1.5 trillion in disintermediation from the industry's $3.3 trillion in deposits.

The National Association of Home Builders has indicated that they are opposed to the amendment for the same reason, because of the credit crunch that the country is now experiencing, and they are afraid it might have a very harmful and detrimental effect in that regard.

Again, core banking is an idea whose time has not yet come. It has a lot of interesting concepts in it, and as I said, I admire the gentleman from New York for his persistence and the fact that he has gotten into it to the extent that he has. I admire him for being able to get this here on the House floor for debate on this bill today. I think that is a monumental accomplishment in and of itself. But until we know what the prospects are and what the problems are as far as disintermediation and the availability of credit, and so forth, I must oppose the amendment.

Mr. SCHUMER. Mr. Chairman, If the gentleman will yield further, the latest estimates on the distintermediation are $200 million.

The CHAIRMAN. The time of gentleman from Ohio [Mr. WYLIE] has expired.

Mr. SCHUMER. Mr. Chairman, I yield 2 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA], a cosponsor of the amendment.

□ 1430

Mrs. ROUKEMA. Mr. Chairman, I rise in support of this, and I say as one

Member, I have not forgotten the lessons of the 1930's and the savings and loan debacle of recent years.

During the eighties, after we deregulated the S&L's, unlimited interest rates which we authorized led to bidding wars for deposits. Those bidding wars led to riskier and riskier investments.

Larger than normal loans to one borrower led to speculative investments in real estate and other questionable commercial lending which left the thrift industry literally holding the bag.

This core bank amendment tells us that we should not forget the lessons of history. I must say in answer to some Members who have talked loud and long about protecting the depositors, protecting future taxpayers, if we really want to do that, we should understand what the Wall Street Journal understands, that the core banking proposal is the best way to insulate taxpayers against another costly bailout.

Mr. Chairman, I include for the RECORD a Wall Street Journal editorial in support of it where it specifically points out that there is not much blood left in the stone, meaning going to the taxpayers to borrow more money for the insurance fund. It states that this collective abdication is moving us to embrace a radical alternative, that of the core banking bill. The proposal is admittedly not the perfect solution, but it is the only proposal on the table that would do anything about deposit insurance. It is the closest thing to real deposit insurance reform and to protecting taxpayers in the future.

The Wall Street Journal editoral follows:

[From the Wall Street Journal, Aug. 15, 1991]

FREDDY'S BAAACK!—II

Bank of America's takeover of Security Pacific is the banking industry's latest attempt at self-help revival. We wish it luck, but we'd have more faith that such mergers will succeed if we saw anything remotely sensible coming from Washington.

Instead the capital's emerging bank "reform" is what we've called another Freddy's Nightmare, recalling Fernand St Germain, the financial genius behind savings and loan reform in the 1980s. That means some modernization, some new banking powers, and lots of talk about more "capital" and "tough" new regulation. In fact, banks' capital positions are already considerably higher than they were before that worry became fashionable. We need to remember, as William Seidman has stressed, that having regulators take over a sagging bank reduces its value and can increase costs to the taxpayer. And of course, having more examiners look over the shoulders of more lending officers is not going to speed the currently tepid economic recovery.

Worst of all, the "reform" does nothing about overly generous deposit insurance, the central flaw that caused the Savings and Loan Crisis and threatens the banks as well. As the S&L lobby got then-Rep. St Germain to boost deposit insurance to $100,000 in 1980, today the small-bank lobby has squelched any attempt to pare it back—even the modest reform of limiting coverage to one account per individual.

Under Keating Five luminary Donald Riegle, the Senate Banking Committee dismissed deposit-insurance limits out of hand; the House Banking Committee rejected them in an 18–17 vote. The Treasury doesn't seem to care that is modest insurance reforms have been gutted. White House Budget Director Richard Darman, who gives an annual lecture on growing federal "liabilities," doesn't seem to be a player.

Meanwhile the Treasury and Congress plan to bring banks on into the future to shore up the banking insurance fund that now pays off depositors. Treasury is using future bank contributions to the fund to borrow some $70 billion for the fund. There isn't much blood left in this stone. Without basic reform now, the next time the fund is in jeopardy, taxpayers will be the only resort.

This collective abdication is moving us to embrace a radical alternative; New York Representative Chuck Shumer's "core" banking bill. The proposal, which is gaining supporters in Congress, is admittedly not the perfect solution. But it is the only proposal on the table that would do anything about deposit insurance.

Mr. Schumer's bill is a modified version of a plan authored by McKinsey banking expert Lowell Bryan. It would limit the interest rate banks could pay on insured deposits to 105% of the Treasury-bill rate. This would avoid the S&L problem of bankers bidding ever-higher for deposits and then gambling on risky loans. The basic regulation for this "core" bank would be that it could lend only so much to any one customer, forcing banks to diversify their loan portfolio, also good for long-run safety.

Outside this core, though, a bank would have the option of accepting deposits with no interest-rate restriction and no federal insurance. Americans willing to accept a little more risk for a higher return could put their money in the non-core bank, and banks could invest these funds without bank examiners constantly peering over their shoulders. Widows and orphans could stick to the "core." Over time the deposit-insurance safety net would shrink; taxpayer risk and liability would decrease. But meanwhile, the economy would get financed.

We don't like fixing anyone's prices, of course, but people relying on taxpayer subsidies shouldn't complain about some limits on their profit-making potential. And the Schumer bill avoids the old Regulation Q credit-crunch problem by letting the rate float with T-bills. Some sages tell us the Schumer concept is the beginning of credit allocation, but in many ways it's less politically intrusive than the Treasury-Congress plans. The Schumer bill at least lets bankers make their own market judgments within the core-bank limits.

We'd be glad to listen to other ideas. Our own proposal, made before the S&L problem reached crisis stage, was that deposit insurance premiums should vary with ratings of risk, as commercial insurance premiums always do. But so far, the core banking idea looks like the only horse on the track that promises to shrink the taxpayer's deposit-insurance exposure.

Sans Schumer or something else, Washington's banking reform looks like the S&L reform redux, a giant buck-passing operation designed to let everyone in the Beltway say they've done something without having to make any hard decisions. The banking industry's problems won't go away, and taxpayers will be left to pick up the check.

Mr. Chairman, I would like to indicate that the core bank does this in the ways that the gentleman from New York [Mr. SCHUMER] has already outlined, and says that we are not going to do it tomorrow, we are not going to do it next year, but there is a rather precise proposal here for an 8-year phase-in. So when we have these scare tactics about money flowing out in huge numbers from the industry, those are only a scare tactics.

Mr. Chairman, I rise in support of the core-bank proposal offered by the gentleman from New York.

The lessons of the savings and loan debacle and the history of the 1930's has not been lost on this Member. Two of these lessons are addressed by the core-bank proposal.

During the early 1980's after we deregulated the S&L's, unlimited interest rates which we authorized led to bidding wars for deposits and those bidding wars led to riskier and riskier investments.

Larger than normal loans to one borrower led to speculative investments in real estate and other questionable commercial lending which left the thrift industry literally holding the bag.

The old adage, "he who ignors the lessons of history is doomed to repeat them," continues to hold true today. If we don't act now to place some modest control over the banks' unlimited ability to attract deposits at will, we will have failed to reduce taxpayer exposure and to eliminate the incentive to make unsound investment decision.

In this respect, I do not believe this amendment should be considered an alternative to or substitute for, the Treasury bill we are considering. There is a neat fit between the two.

And, this goes directly to the heart of the fundamental reforms we are aiming for—secured deposits, affirming the safety net, and expanding and diversifying financial activities and their investment opportunities.

Let there be no mistake, this concept is not the panecea for our banking problems. There are lots of questions to be asked and concerns to be addressed.

Refinements in the proposal will have to be worked out over the 8-year phase-in for this plan. And I want to stress this phase-in period. We are not talking about the creation of a new system overnight or on the date of enactment.

With that said, the core-bank concept does represent a sensible approach to the basic problems in banking which require restructuring.

We know that there has been a growing pool of insured deposits that are chasing a smaller pool of profitable business. As a result, many banks, in attempting to retain their market share, have been found to be relaxing underwriting standards, taking more risk and increasing the rates they pay for deposits.

This process in turn has backfired for many banks as we have seen with the downturn in the commercial real estate and development market.

The core-bank concept attempts to deal with these problems by removing risky activities from the insured bank and by lowering the incentives for risk taking in the core bank by placing limits on the interests rates which can be offered and amounts one individual can borrow from the institution.

For this Member, floating interest rate caps and reasonable loans to one borrower limits are the areas which need further exploration and discussion. But fundamentally, they are sound concepts which would serve to rein in and tighten the Federal safety net, thus providing more protections for the bank insurance fund and ultimately the taxpayer.

I believe my colleagues will agree that insured deposits should only be used to finance traditional business of banking—personal loans, small business loans and lines of credit, and mortgage lending. Insured deposits should not finance highly speculative lending, equity investments or other activities which should be done outside the Federal safety net.

These are the reasons the Wall Street Journal and Forbes magazine support it.

The core-bank proposal as offered is not perfect. But it is a concept worth our very serious examination.

I urge adoption of this amendment.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. JOHNSON].

Mr. JOHNSON of Texas. Mr. Chairman, as a realtor and close associate of banks in the Texas area, I can say that this proposal looks like to me it does exactly what we do not want to do, and that is put the money where it cannot be lent.

Mr. Chairman, the core bank appears to do little, if anything, to reduce the risk to the FDIC, while it is likely to create tremendous disruptions in lending practices, regulatory oversight, and customer relationships.

The core bank lending limit appears highly likely to further reduce credit ability and make borrowing costs much higher. The potential disruptions for our economy, the financial system, and the banking system, with all the possible inefficiencies and costs, must be carefully examined before such a radical step could be taken.

Mr. Chairman, I think that our chairman and the minority members on this committee have worked hard to put a good banking bill in place, and this would just destroy it.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Texas. I yield to the gentleman from New York.

Mr. SCHUMER. I thank the gentleman for yielding.

Mr. Chairman, I would like the gentleman to answer if he thinks that lending to Brazil is risky, if he thinks that HALT loans are risky, if he thinks doing foreign currency exchange trading is risky?

Mr. JOHNSON of Texas. Sure.

Mr. SCHUMER. Then I would say to the gentleman, he stated it would not reduce risk to the depositors. All those things could not be done with insured deposits under core bank. So how can the gentleman assert so boldly and so baldly that it will not reduce risk to the deposit system if he agrees that those three activities are risky and he knows that core bank will eliminate insured dollars going to those activities?

Mr. JOHNSON of Texas. Mr. Chairman, reclaiming my time, let me say to the gentleman from New York [Mr. SCHUMER], I am not just talking from personal experience. I am quoting from bankers who know the banking business, and these are recommendations from them.

Mr. SCHUMER. Mr. Chairman, if the gentleman will yield further, I understand from the gentleman that big banks do not like this bill. It will make them a lot healthier, too, because they should not be using their money for these activities.

Mr. JOHNSON of Texas. Mr. Chairman, what we need is money out there to be loaned.

Mr. SCHUMER. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. BACCHUS], a member of the committee.

Mr. BACCHUS. Mr. Chairman, for 10 months, I have deliberated with the 50 other members of the Banking Committee about bank reform.

Some of my colleagues on the committee have deliberated on this issue for 10 years, and more.

We need real bank reform.

Reluctantly, regrettably, I have concluded that the bills offered today won't give us the real reform we need.

They won't restore the health and profits and competitiveness of the banking industry.

They won't provide all the protection that depositors need.

They won't protect taxpayers against the possibility of a bank bailout that could rival the scandalous bailout of the savings and loans.

In fact, the financing scheme in each of the proposed bills opens the back door of the Treasury wide to a taxpayer bailout of commercial banks.

The banking industry offered to recapitalize the FDIC themselves.

We ignored them.

We're sneaking through the back door to pick the taxpayers' pockets once again.

The $30 billion in these so-called reform bills is just the beginning.

President Bush will be back to ask for billions more.

Shades of the RTC.

We must limit the risk of the taxpayers of a bank bailout that could cost hundreds of billions of dollars.

It would be wrong to try to limit taxpayer exposure by limiting deposit insurance—without also ending immediately the iniquitous doctrine called too-big-to-fail.

Community Banking and Community decisionmaking must be maintained.

The real reform we need is core banking.

Core banking does not limit deposit insurance.

Core banking limits the insured activities of banks.

Those banks that engage in safe, sound, traditional banking activities would have the same sheltering umbrella of insurance they have always had.

Those banks that want to make risky loans or highly speculative investments could do so—but not on the taxpayers' tab.

Banks do need a level playing field. Yet we shouldn't ask the taxpayers to pay for the balls and the bats.

With core banking, banks would be profitable. Depositors would be protected. The taxpayers' pockets would be much more secure.

Too many of us can't see the forest for the firewalls. Those who think that any of the bills offered today constitute real reform should read the fine print.

Follow the money trail.

See where it leads.

Lock the back door.

Those who want real reform should support core banking.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. NEAL].

Mr. NAGLE. Mr. Chairman, I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. NAGLE. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 360]

Abercrombie	Bruce	DeFazio
Ackerman	Bryant	DeLauro
Alexander	Burton	DeLay
Allard	Bustamante	Derrick
Anderson	Byron	Dickinson
Andrews (ME)	Callahan	Dicks
Andrews (NJ)	Camp	Dingell
Andrews (TX)	Campbell (CO)	Dixon
Annunzio	Cardin	Donnelly
Anthony	Carper	Dooley
Applegate	Carr	Doolittle
Armey	Chandler	Dorgan (ND)
Atkins	Chapman	Dornan (CA)
AuCoin	Clay	Downey
Bacchus	Clement	Dreier
Baker	Clinger	Duncan
Ballenger	Coble	Durbin
Barnard	Coleman (MO)	Dwyer
Barrett	Coleman (TX)	Dymally
Barton	Collins (IL)	Early
Bateman	Collins (MI)	Eckart
Beilenson	Combest	Edwards (CA)
Bennett	Condit	Edwards (OK)
Bentley	Conyers	Edwards (TX)
Bereuter	Cooper	Emerson
Bevill	Costello	Engel
Bilbray	Coughlin	English
Bliley	Cox (CA)	Erdreich
Boehlert	Cox (IL)	Espy
Boehner	Coyne	Evans
Bonior	Cramer	Ewing
Borski	Crane	Fascell
Boucher	Cunningham	Fawell
Brewster	Dannemeyer	Fazio
Brooks	Darden	Feighan
Broomfield	Davis	Fields
Browder	de la Garza	Fish

Flake
Foglietta
Ford (MI)
Ford (TN)
Franks (CT)
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Houghton
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Marlenee
Martin
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Morrison
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

□ 1458

The CHAIRMAN. Four hundred Members have answered to their names, a quorum is present, and the Committee will resume its business.

□ 1500

The CHAIRMAN. The Chair would advise the Committee that there are 11½ minutes remaining in this particular debate.

At the time of the quorum call, the gentleman from Ohio had yielded 2 minutes to the gentleman from North Carolina [Mr. NEAL].

The gentleman from North Carolina [Mr. NEAL] is recognized for 2 minutes.

Mr. NEAL of North Carolina. Mr. Chairman, this amendment certainly has a superficial appeal. We have a problem with insured deposits. We have got an easy answer, just reduce the amount of insured deposits. Of course, that is exactly what the core banking concept does. If it did not do that, well, there would not be any reason for it. But that is the problem also.

Most estimates I have seen are that this proposal, this core bank proposal, would shrink the banking system by about a third.

Now, we do not know for sure, but we think it would shrink it by $1.5 trillion. Sure, it would reduce deposit insurance, because it would shrink deposits—shrink deposits by $1.5 trillion.

If you like the credit crunch, you will love core banking.

Mr. Chairman, already small business is having an enormous amount of trouble finding money. The banks and regulators, as everyone is hearing, are tightening up. If you take 30 percent of the money out of the banking system, you will have a real credit crunch, a disaster for small business, a disaster for our economy.

Mr. Chairman, if you take a third of the money out of our banking system, you will have a disaster for small business and the economy. And do not forget, Mr. Chairman, that interest-rate ceilings and a limited charter, exactly what core banking is all about, is exactly what the savings and loans had. It did not keep them out of trouble in the 1970's.

This core-banking proposal has a superficial appeal, but, in fact, it is a very far-reaching radical proposal. There have been hardly any hearings on it. It was defeated in subcommittee, defeated in full committee.

The Senate bill calls for a study of this proposal. That is a good idea. It has some appeal, let's study it.

But certainly, let us not adopt something so far-reaching, so radical, without adequate hearings.

It is essential to defeat this core-banking proposal.

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. COX].

Mr. COX of Illinois. Mr. Chairman, I rise today to express my strong support for the amendment proposed by the gentleman from New York [Mr. SCHUMER], which creates a core banking system in this legislation.

It seems to me that it is important for all of my colleagues to understand the real reasons that we are where we are today. Those reasons are:

First, bankers have made some bad loans. It is important to keep in mind that it is not solely the fault of the bankers that some of the loans they have made have turned sour. Extensive changes in the national economy—as well as specific changes in tax laws which have affected the value of real estate—are also involved in the increasing number of problem loans of our Nation's banks.

Second, we have the executive branch's regulators who cannot regulate the way we want them to regulate. It is interesting to note that the proposed firewalls in the legislation will be enforced by those same regulators.

Third, we are currently in a recession. This recession has brought to the forefront the problems which could have festered behind the scenes for sometime if the overall economy had not slowed down.

Rather than tinkering around edges of the industry's problems, we must act responsibly by getting to the heart of the problem. For this reason, I am in full support of the core banking proposal. If banks believe they need new powers to restore their profitability, let us allow for it. Let us no longer pretend that regulators can somehow make better choices than responsible business people about how to operate their institutions. And most importantly, let us allow banks to be competitive in the financial services industry again. However, let us not do those things with the taxpayers standing behind the system. A core banking structure will separate safe investments from more profitable, yet riskier activities without making the taxpayers pay the price of failure.

Core banking will minimize taxpayer exposure. It is the most responsible and commonsense action we can take here today. I urge my colleagues to vote for the Schumer amendment.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. LAFALCE].

Mr. LaFALCE. Mr. Chairman, I reluctantly rise to oppose the amendment.

One of the reasons we are here today is to help bring about a modernization of the financial services industry legal infrastructure to bring the U.S. banking laws up to speed with the rest of the world.

The fact of the matter is that the banks in the United Kingdom, the banks in Germany, the banks in Japan, et cetera, have a much broader charter than United States banks, and if we want to become, not remain, but become internationally competitive, we must have charters commensurate with theirs. This goes in the opposite direction.

Second, we must be concerned not only with financial institutions per se, we must be concerned with national and international economies. Right now, we are in a very serious recession. In large part because of failed banking laws and policies, we have a capital crunch. That capital crunch has produced a credit crunch.

There are legitimate concerns, concerns voiced by the banking regulators present and past, Greenspan and Volcker, Taylor and Seidman, et cetera, that this will exacerbate the credit crunch, that it could bring about a disintermediation of $½ trillion, $1 trillion, $1.5 trillion.

The only place you would be able to go for money is not to your local bank, if you are a small businessman, it would be to a GE Capital Credit Corp., but they do not make loans to the small-business community.

We do need limits on the interest rates that undercapitalized banks give. The banking bill provides such restrictions. The banking bill gives the regulators the ability to impose restrictions on undercapitalized institutions.

Do not make this mistake.

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I thank the House for being in order. I think it is very important that you are in order.

I would like you all to just take a moment to think, however you might, where you are right now at this time, what day it is, so you will remember this day. Think about it, whether it is Halloween, the last day of October, it is your spouse's birthday, your children's birthdays, do not forget today, because many of you forgot where you were in 1981, when we made a fatal mistake, when we let the S&L's take the public's money, the insured money, and go and gamble with it. And we are now charging it, billions and billions of dollars, to our children.

This is the only vote you will get that reforms the system, the only vote you will get. Some of you scrambled for the CONGRESSIONAL RECORD to try to see if you voted with Mr. LEACH, or did you not, did you vote with Mr. St Germain, or did you not. Remember where you are now, folks, because you are going to be asked a few months, a few years from now where were you on the day they voted on core banking.

"Did you let the bankers gamble with federally insured money?"

The answer will come in a minute.

□ 1510

Mr. WYLIE. Mr. Chairman, part of the problem, I may say to the gentleman from California, is that in his own State they were permitted 100 percent equity investments if they were a State-chartered S&L.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Chairman, first of all, in response to the last speaker, my distinguished colleague, I hope all the Members of this body had an opportunity to look at title I of the bill and the increased safety and soundness standards contained in title I; but I rise in opposition to the amendment, not because the idea lacks merit. To the contrary, I am intrigued by the idea, but because the idea is now being promoted as an 11th-hour quick fix panacea, and that is exactly what way it came before the Banking Committee.

This idea in its various forms, core banking, two-tier, two-window banking, has been around for awhile and deserves our serious study and consideration, not at the 11th hour, but before the Banking Committee, which has pledged to study this concept, with witnesses representing the consumer groups and the banking and financial services industries.

Mr. Chairman, I personally would like the idea, which I did not have at the sole hearing that we had on this in the Banking Committee, in the Banking Committee markup, to get some answers to my questions. Can a financial services holding company own both a regulated insured core bank and an unregulated uninsured subsidary? If that is the case, what regulations are we going to impose to protect the integrity of core banking and insure that the deposits flowing into both subsidiaries are not comingled? After all, the idea of core banking is that those deposits can only be invested in the safest and soundest investments.

Mr. Chairman, we will have another opportunity to examine the merits and the impacts of this revolutionary proposal, to think it through properly and to revisit the subject when we go back and look at the overall subject of regulatory restructuring. That is the time to give this consideration. Do not fall prey to the seductive allure of a last-minute fix that could cause tremendous uncertainty, distress, and disintermediation in the financial markets and in the short run would certainly worsen our severe credit crunch across the land.

Mr. SCHUMER. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Chairman, I rise in support of the core bank concept as embodied by the Schumer amendment. I urge an aye vote.

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. MORAN], a member of the committee.

Mr. MORAN. Mr. Chairman, this amendment is unique among all of the amendments that we will consider in this banking bill. It is unique because there is no special interest that supports this amendment. We will not be met by any high-priced lobbyists on our way onto the floor giving us the thumbs up sign. There is no interest that can benefit from this amendment, but one, and that is the public interest.

It is terribly important to understand that if this amendment passes, we do not need to fight about the Dingell-Gonzalez amendment. Give the banks all the powers they want, because the Federal taxpayer will not be left holding the bag. That is our ultimate responsibility, not to protect any interest, but the public interest.

Yes, it is farreaching, it is radical, but it is the right thing to do.

Mr. SCHUMER. Mr. Chairman, I yield 1½ minutes to the gentleman from Kansas [Mr. SLATTERY], the distinguished cosponsor of the bill.

Mr. SLATTERY. Mr. Chairman, without this amendment, when we finish our work here today the basic banking system will still be in place. We are not going to make fundamental reforms. The system that allows banks to make loans to Brazil, Argentina, and perhaps the Soviet Union with insured deposits, will be in place. We will still have a system that will enable our banks to invest in high-yield risky junk bonds with insured deposits, and we will still have in place a system that will allow our banks to make highly speculative real estate loans with insured deposits, and we will have in place banks that can speculate on the international monetary markets with your insured deposits.

Now, the core-bank proposal offers real reform. It will change all of this and it will say to the big banks in this country that will be affected by this legislation, because the small community banks will not really be affected, but it will say to those big banks that you can do those activities, you can speculate in the monetary markets, you can speculate in real estate, you can speculate in high-yield junk bonds, but you cannot do it with the taxpayers' insured deposits. That is what we are talking about. It is not a radical idea. It is fundamental common sense.

Mr. Chairman, the taxpayers are going to be watching this vote, because their No. 1 concern is to reduce their exposure in the deposit insurance system. This is the only proposal that does that. I strongly urge your support.

Mr. SCHUMER. Mr. Chairman, I yield ½ minute to the gentlewoman from New Jersey [Mrs. ROUKEMA], a distinguished cosponsor of the legislation and a member of the committee.

Mrs. ROUKEMA. Mr. Chairman, our colleagues should understand this is the only piece of business before us that is truly going to protect the taxpayer by insulating deposit insurance and taxpayer money. It will take 8 years, not tomorrow, but 8 years to work out and the disintermediation will not take place to suggest that enormous outflows of money cannot be substantiated. These are purely scare tactics. If disintermediation were the consequence the Wall Street Journal, Barron's, and Forbes would not be endorsing this, nor would the National Taxpayers Association.

Establishment of the core bank concept is the only proposal before us to insulate the deposit insurance fund and protect the taxpayer from future bailouts.

Mr. SCHUMER. Mr. Chairman, I yield myself the remaining time.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I rise on behalf of the gentleman's amendment. I think it makes a great contribution to the bill.

Mr. SCHUMER. Mr. Chairman, why should one be for core bank? There are several reasons. First, it has been argued there would be disintermediation. Yes, there would be some money flowing out of the system, the money that now goes to Brazil, the money that goes to LBO loans, the money that goes to high-flying real estate lending. That money should never have been insured and that is the only money that would flow out of this system under core bank. Money for mortgages, for small businesses, would increase under core bank, because that is what banking should do.

Why should one be for core bank? Because it has broad bipartisan support.

The gentleman from California [Mr. CAMPBELL] and I—he could not be here—worked hard on this bill, along with the gentlewoman from New Jersey and the gentleman from Kansas; but most of all, Mr. Chairman, we should not make the same mistake we made in 1982, with the S&L's, letting them expand into new businesses with the taxpayers' dollars. We all know that is what caused the problem. We can argue about who did it, but that is the cause.

There is only one amendment on the floor today that learns from history. It is a sweeping change indeed, but the banking system is sick and we will be back here for $30 billion and $30 billion and $30 billion and $300 billion unless we reform the system today. Do not put it off. Do not delay. The taxpayers cannot afford it. Only core bank will protect the insured deposit system once and for all.

☐ 1520

Mr. WYLIE. Mr. Chairman, I yield such time as he may consume to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Chairman, as a supporter of the basic concept of core banking, I reluctantly rise in opposition to this particular motion.

Mr. WYLIE. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to the core bank concept. I caution my colleagues: Look before you leap. This could exacerbate the credit contraction; their right to the banking system will never be the same, it is turning over on its head. We have not even studied it. Are you prepared to do that? Vote "no."

Mr. Chairman, the core bank idea is an honest, creative way to try and deal with the problem of subsidized deposits that get in the way of market discipline, and therefore contribute to losses for the bank insurance fund.

Another form of poor market discipline is the too-big-to-fail problem, which we addressed in several instances in the underlying bill. We disallowed the coverage of uninsured deposits, and we placed limits on Federal reserve advances to ailing banks.

Some feel we did not go far enough, and given that there are not limits on insured accounts per institution, we need the core bank proposal, which would divide banks into insured core banks and uninsured wholesale banks.

My problem is that Congress does not have a full grasp of what the policy will mean once implemented. Usually when people say "we should have held hearings first," it's a strawman, a disingenuous ploy to stave off the political opposition. But here, with this ambitious amendment, I can say that I for one truly need to hear more, to hear experts from the field, before I vote on a policy that will effect tens and tens of billions of dollars.This is not a political statement. I may someday vote for the core bank proposal. But that will only be after I have become far better educated on the details and ramifications therein. We're talking about a fundamental reorganization of the banks industry, without critical review and assessment.

So the bottom line is I am not ready for this. I am not even sure what questions to ask. I suspect there may be problems with wholesale banks that run into difficulty and then need a government bailout after all. They may be too big to fail even though they have no FDIC coverage. I also don't know what the effect will be on the economy when billions of dollars are transferred from core banks to wholesale banks. I don't know if interest rate caps are needed to prevent speculation or are just a throwback to a more heavily regulated era.

In sum, my colleagues, I am not ready for this. If I cannot explain this with a degree of certainty to my constituents, then I cannot vote for the amendment. I understand that the Banking Committee chairman has pledge hearings. We should proceed on that path.

Mr. WYLIE. Mr. Chairman, I say to the gentleman from Kansas that commercial banks are prohibited by law from investing in junk bonds.

Mr. Chairman, I yield the balance of my time, 1 minute, to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. I thank the gentleman for yielding.

Mr. Chairman and colleagues, make no mistake, this is one of the two or three most critical votes we will cast on this issue.

I agree with the gentleman from Iowa [Mr. LEACH] that this amendment does not have a surface attractiveness. But under scrutiny, it does not stand. That is why neither committee included this amendment in its proposal to this body, not the Committee on Energy and Commerce nor the Committee on Banking, Finance and Urban Affairs.

This Nation used to have core banking. It had core banking in 1929, when you had insured postal stamps, if you wanted to pick that venture.

People with insured postal stamps did not lose a dime in 1929. But the system crashed.

What we tried to do after 1929 was to integrate the entire banking system. And the flaws of this amendment is that it takes us back to 1929.

Do we want to risk that? Do we want to risk, as the gentleman from Kansas [Mr. SLATTERY] said, completely overturning the banking system as we know it? This is not the time, and let us not take that risk today.

Mr. WEISS. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York [Mr. SCHUMER], and I commend him for his attempts to include true deposit insurance reform in this measure. The Schumer amendment constitutes tough love for banks by requiring banks to fund their risky activities through the markets. Most importantly though, this proposal will limit taxpayer exposure and ultimately lower FDIC costs by imposing the most cautious form of early intervention—a strong dosage of failure prevention.

The unintended reality of deposit insurance is that banks play hard and fast with taxpayer-insured deposits in pursuit of high profits. Unfortunately, this system enables a small portion of institutions to overpay for deposits in order to fund their activities, regardless of the risk associated with these activities.

Two alternatives to remedy this situation are limiting the insurance provided to depositors or limiting the way banks use these deposits. In my estimation, limiting government liability at consumer expense is not an appropriate response. Rather, narrower banking practices offer a much fairer option while creating stronger banks and protecting consumers against unsound banking operation.

But the core bank proposal does not eviscerate banks as its opponents would have you believe. The limits under which core banks will operate will still allow insured institutions to make consumer, small- and mid-size business loans and conduct all branch activities. Core banks additionally would be free to affiliate with uninsured institutions, which have far fewer restrictions placed on them. These affiliates could invest in riskier assets and offer higher rates to their customers. In effect, this amendment provides the most unclouded and most sensible distinction between an investor and a depositor.

An uninsured investment company could be set up to perform all underwriting, trading, and investment banking activities. Institutions interested in partaking in these activities would have to raise funds in the marketplace. The core bank proposal takes the Federal training wheels off banks by making them compete for deposits on the strength of their own balance sheet.

By imposing floating interest rate caps, the proposal further ensures that weak banks could not attract new funds on the Government's guarantee. Prudently, it includes a safety valve for the rate caps during times of severe economic hardship. The amendment gives the FDIC the authority to temporarily waive the interest rate limits in cases of regional recessions or harsh market cycles.

Mr. Chairman, we are on the verge of making major reforms to our banking system. Many of these changes are critically needed but it would be unconscionable to expand bank powers without enacting major safeguards to the American taxpayer. I urge my colleagues to support the core bank amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from New York [Mr. SCHUMER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SCHUMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 106, noes 312, answered "present" 1, not voting 14, as follows:

[Roll No. 361]

AYES—106

Ackerman	Hall (OH)	Payne (NJ)
Andrews (ME)	Hall (TX)	Pelosi
Annunzio	Hayes (IL)	Poshard
AuCoin	Hertel	Rangel
Bacchus	Hochbrueckner	Regula
Beilenson	Horn	Rohrabacher
Bennett	Hoyer	Rostenkowski
Berman	Hughes	Roukema
Bonior	Jefferson	Roybal
Borski	Johnson (SD)	Russo
Bryant	Jontz	Sanders
Cardin	Kaptur	Sangmeister
Clay	Kennedy	Schroeder
Coleman (TX)	Kennelly	Schumer
Collins (IL)	Kildee	Serrano
Collins (MI)	Lehman (CA)	Slattery
Condit	Lehman (FL)	Smith (FL)
Conyers	Levine (CA)	Stark
Cox (IL)	Lewis (GA)	Stenholm
Coyne	Lipinski	Stokes
DeFazio	Lowey (NY)	Studds
Dellums	Markey	Taylor (MS)
Donnelly	Mazzoli	Torricelli
Dorgan (ND)	McCloskey	Traficant
Downey	McDermott	Visclosky
Durbin	Mfume	Washington
Dwyer	Miller (CA)	Waters
Eckart	Mineta	Waxman
Edwards (CA)	Mink	Weiss
Engel	Moran	Wheat
Foglietta	Neal (MA)	Wolpe
Ford (MI)	Olver	Wyden
Gejdenson	Owens (NY)	Yates
Gephardt	Owens (UT)	Zimmer
Glickman	Pallone	
Gonzalez	Panetta	

NOES—312

Abercrombie	Gilchrest	Moody
Alexander	Gillmor	Moorhead
Allard	Gilman	Morella
Anderson	Gingrich	Morrison
Andrews (NJ)	Goodling	Mrazek
Andrews (TX)	Gordon	Murphy
Anthony	Goss	Murtha
Applegate	Gradison	Myers
Archer	Grandy	Nagle
Armey	Green	Natcher
Aspin	Gunderson	Neal (NC)
Atkins	Hamilton	Nichols
Baker	Hammerschmidt	Nowak
Ballenger	Hancock	Nussle
Barnard	Hansen	Oakar
Barrett	Harris	Oberstar
Barton	Hastert	Obey
Bateman	Hatcher	Olin
Bentley	Hayes (LA)	Ortiz
Bereuter	Hefley	Orton
Bevill	Hefner	Oxley
Bilbray	Henry	Packard
Bliley	Herger	Parker
Boehlert	Hoagland	Pastor
Boehner	Hobson	Patterson
Boucher	Holloway	Paxon
Brewster	Horton	Payne (VA)
Brooks	Houghton	Pease
Broomfield	Hubbard	Penny
Browder	Huckaby	Perkins
Bruce	Hunter	Peterson (FL)
Burton	Hutto	Peterson (MN)
Bustamante	Hyde	Petri
Byron	Inhofe	Pickett
Callahan	Ireland	Pickle
Camp	Jacobs	Porter
Campbell (CO)	James	Price
Carper	Jenkins	Pursell
Carr	Johnson (CT)	Quillen
Chandler	Johnson (TX)	Rahall
Chapman	Johnston	Ramstad
Clement	Jones (GA)	Ravenel
Clinger	Jones (NC)	Ray
Coble	Kanjorski	Reed
Coleman (MO)	Kasich	Rhodes
Combest	Kleczka	Richardson
Costello	Klug	Ridge
Coughlin	Kolbe	Riggs
Cox (CA)	Kolter	Rinaldo
Cramer	Kopetski	Ritter
Crane	Kostmayer	Roberts
Cunningham	Kyl	Roe
Dannemeyer	LaFalce	Roemer
Darden	Lagomarsino	Rogers
Davis	Lancaster	Ros-Lehtinen
de la Garza	Lantos	Rose
DeLauro	LaRocco	Roth
DeLay	Laughlin	Sabo
Derrick	Leach	Santorum
Dickinson	Lent	Sarpalius
Dicks	Levin (MI)	Sawyer
Dingell	Lewis (CA)	Saxton
Dixon	Lewis (FL)	Schaefer
Dooley	Lightfoot	Scheuer
Doolittle	Livingston	Schiff
Dornan (CA)	Long	Schulze
Dreier	Lowery (CA)	Sensenbrenner
Duncan	Luken	Sharp
Early	Machtley	Shaw
Edwards (OK)	Manton	Shays
Edwards (TX)	Marlenee	Shuster
Emerson	Martin	Sikorski
English	Martinez	Sisisky
Erdreich	Matsui	Skaggs
Espy	Mavroules	Skeen
Evans	McCandless	Skelton
Ewing	McCollum	Slaughter (NY)
Fascell	McCrery	Smith (IA)
Fawell	McCurdy	Smith (NJ)
Fazio	McDade	Smith (OR)
Feighan	McEwen	Smith (TX)
Fields	McGrath	Snowe
Fish	McHugh	Solarz
Flake	McMillan (NC)	Solomon
Ford (TN)	McMillen (MD)	Spence
Frank (MA)	McNulty	Spratt
Franks (CT)	Meyers	Staggers
Frost	Michel	Stallings
Gallegly	Miller (OH)	Stearns
Gallo	Miller (WA)	Stump
Gaydos	Moakley	Sundquist
Gekas	Molinari	Swett
Geren	Mollohan	Swift
Gibbons	Montgomery	Synar
Tallon	Unsoeld	Weldon
Tauzin	Upton	Williams
Taylor (NC)	Valentine	Wilson
Thomas (CA)	Vander Jagt	Wise
Thomas (GA)	Vento	Wolf
Thomas (WY)	Volkmer	Wylie
Thornton	Vucanovich	Yatron
Torres	Walker	Young (AK)
Towns	Walsh	Young (FL)
Traxler	Weber	Zeliff

ANSWERED "PRESENT"—1

Cooper

NOT VOTING—14

Bilirakis	Dymally	Savage
Boxer	Guarini	Slaughter (VA)
Brown	Hopkins	Tanner
Bunning	Lloyd	Whitten
Campbell (CA)	Rowland	

□ 1540

Mr. MINETA and Mr. JEFFERSON changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1540

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 102-281.

AMENDMENT OFFERED BY MR. BARNARD

Mr. BARNARD. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BARNARD: Page 213, beginning on line 1, strike out all of title IV through page 426, line 9, and redesignate the succeeding titles and sections (and references thereto), and conform the table of contents accordingly.

The CHAIRMAN. Under the rule, the gentleman from Georgia [Mr. BARNARD] will be recognized for 20 minutes, and a Member opposed will be recognized for 20 minutes.

The Chair recognizes the gentleman from Georgia [Mr. BARNARD].

PARLIAMENTARY INQUIRY

Mr. BARNARD. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BARNARD. Mr. Chairman, who has the privilege of closing the debate?

The CHAIRMAN. The Chair will inquire, is the gentleman from Texas going to oppose the amendment?

Mr. GONZALEZ. Mr. Chairman, I am in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. GONZALEZ], at the appropriate time, will be recognized for 20 minutes and will have the privilege of closing debate.

Mr. BARNARD. Mr. Chairman, I also wish to inform the Members that I am yielding 5 minutes of my time to the ranking minority member of the committee, the gentleman from Ohio [Mr. WYLIE], and he will control those 5 minutes.

The CHAIRMAN. Without objection, the gentleman from Ohio [Mr. WYLIE] will control 5 minutes of the time.

There was no objection.

Mr. BARNARD. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. HOAGLAND].

Mr. HOAGLAND. Mr. Chairman, let me begin by reminding the Members that the agreement reached by the gentleman from Michigan [Mr. DINGELL] and the gentleman from Texas [Mr. GONZALEZ] has become original text under the rule, and title IV is part of the original text under this agreement. A number of us here are asking today that that title be stricken.

We strongly believe that title IV should be stricken because it is counterproductive and it is going to weaken banks, not strengthen them, it is going to make banks more likely to fail, and it will make the price tag to the taxpayers in the end more costly, not less costly.

Now, in the debate on this motion, we will hear from the opponents a lot of allegations that we are replaying Garn-St Germain, and that we will do that unless this proposal stays in the bill. Let me indicate that that is simply not the case.

We on the Banking Committee were not born in the last century. We worked very, very hard to make a series of regulatory improvements so that we will not relive Garn-St Germain. Let me indicate what some of those regulatory improvements are that are in title I and title II of the bill. It is not the case that we are reliving Garn-St Germain. Here are some of those regulatory improvements:

Annual onsite examinations for banks, which will be required of every bank in the country for the first time in history; prompt corrective action and early intervention for failing bank systems, which requires the regulators to get in there early when there is the first sign of weakness and take a series of mandatory actions; restrictions on broker deposits, which will reduce the insurance fund's exposure to troubled institutions; and risk-based deposit insurance premiums, which will make it costlier for banks to engage in risky activities.

Mr. Chairman, there would be no direct investment of insured deposits in the stock market or in commercial or real estate projects.

Let me emphasize all the things we are doing in title I and title II to strengthen the regulatory system at considerable cost to the banks for safety and soundness purposes so that we will not have a replaying of the S&L crisis. So when Members hear the rhetoric that we are inviting another Garn-St Germain, they should reject it and support this motion to strike title IV.

Mr. GONZALEZ. Mr. Chairman, I rise in opposition to this amendment, and I yield myself such time as I may consume.

Mr. Chairman, this amendment protects some of the biggest of the big banking corporations from proper regulation. Some three dozen of the big holding companies have slipped through the Glass-Steagall Act. They have taken advantage of loose regulatory interpretations and formed so-called section 20 subsidiaries to engage in securities markets. Rulings by the Office of the Comptroller of the Currency have allowed other banks to escape the Glass-Steagall barriers.

All these activities will be brought under the regulatory provisions of title IV, but if the title is stricken, the J.P. Morgans, the Chase Manhattans, the Citicorps, and other big banks would be home free. In addition, of course, the striking of title IV would wipe out an opportunity for the House to set up a rational, safe structure for security powers in place of the hit-and-miss loophole process now being employed by the regulatory agencies.

Title IV contains safeguards for the public and for public moneys. The banks oppose these safeguards. They want benefits without responsibility. The Congress should represent the public and not cave in to this blatant, all-or-nothing demand from the banking industry.

A decade ago an almost identical test was before this House. The House failed that test and voted to let the savings and loan associations expand into these new hazardous activities. The House has a make-up test today. A passing grade requires keeping title IV and public safeguards in this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. BARNARD. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. NEAL].

Mr. NEAL of North Carolina. Mr. Chairman, we are here today because our country needs a safe, sound, and vigorous banking system. We don't need this banking system for the sake of bankers. We need it for the sake of our whole economy—for small businesses, for consumers, homeowners, savers—everyone.

Mr. Chairman, there are problems with our banks today. Historically, banks made a living by lending to business and consumers. At one time, most of this business was theirs. But things have changed. Big companies now go directly to the market for money; they issue their own commercial paper on Wall Street or go to large nonbank lenders like General Electric [GE] Credit, bypassing the banks. Often consumers also bypass banks. Automobile companies, for example, finance the cars they sell. The largest issuers of credit cards include Sears, American Express, and AT&T. Department and other stores also often offer their own credit cards or other credit.

Consequently, the ability of banks to make money has been severely curtailed. To maintain a healthy, safe, sound banking system, we need to recognize that changes have taken place and to modernize the system accordingly. If we do not, the industry may not be able to pay its own way and ultimately taxpayers may be called upon to make good on the promise of deposit insurance.

When I first arrived here in the mid-1970's, when Henry Reuss was chairman of the Banking Committee, we had long, exhaustive studies of these issues and the publication of the FINE "Financial Institutions in the National Economy report. That had been preceded by the Hunt Committee Report in 1971. Then in the 1980's the Reagan and Bush administration conducted studies. The Federal Reserve and others also have engaged in exhaustive studies.

Almost everyone who has spent time on the subject has come to that conclusion. Again, we need this reform of banking laws not for the banks, but for all of America—for small business, for consumers, for taxpayers, for savers. We need a safe, sound, competitive banking system—to foster a strong economy, to provide jobs for our people, to be able to compete in international trade.

Mr. Chairman, the conclusion of almost everyone who looks at the banking system is that banks should be able to diversify, to increase their opportunities for earnings and to decrease the likelihood of losses and financial difficulties. Banks should be able to diversify geographically and also in terms of products and services. It has been said that banks have been said that banks have engaged in bad real estate loans, loans for leveraged buyouts, and so on. This is all true, but part of the reason they have taken these risks is because of limitations on what banks can do. Since much of their traditional business is now going to others, banks' opportunities to earn and grow have been limited.

If we were talking about any other kind of business, you might ask, "Why do we care? Let the marketplace sort it out." The reason Congress has to worry about the profitability and soundness of banks is that the Federal Government ultimately stands behind the deposit insurance system at banks, savings and loans, and credit unions. If banks can't compete and survive in the marketplace, the taxpayer may wind up paying the bill.

Mr. Chairman, one reform that clearly can help is the expansion of interstate banking and branching. A bank that operates in more than one region can spread its risk. It is less likely to be devastated by a regional recession—as the banks in Texas and New England were—if it also operates in other areas where the economy is stronger. Geographical diversity can lead to real strength. And interstate branching also can lead to much greater efficiency by reducing duplication in bookkeeping, personnel, and other functions.

It has been said that only the big banks want and need to offer new products and services. To some extent that is true. Smaller banks can continue to do what banks have done throughout history and do very well. Many are thriving by doing just that. But the country also needs larger banks if we are going to be fully engaged and competitive in an international economy. If we want to create new opportunities and a better standard of living for our people, then we have to have a number of banks big enough to operate effectively in the international arena—big enough to deal with and compete with other world-class banks and to help finance our exports. Recent testimony in the House Banking Committee indicated that small community banks—probably over 10,000 of the 12,500 banks in business today—provide only about 17 percent of the credit needs of this country. Obviously, we need healthy large banks also.

As I said, Mr. Chairman, almost everyone who studies these issues comes to the same conclusions. Our Financial Institutions Subcommittee, which spent a lot of time and energy on this subject, also came to the same conclusions. We on the subcommittee passed our version of the banking bill, which was essentially the administration's bill. The vote was unanimous, 36 to 0. Democrats, Republicans, liberals, conservatives from all over our country all came to essentially the same conclusion: We need to modernize the system.

But lately the water has been muddied. There has been widespread misunderstanding of what our banking committees have done. The perception has spread that our bill does for banks what Congress and the administration did for the S&L's in the early 1980's. This is a totally incorrect perception.

When the S&L's experienced great difficulties in the early 1980's, their capital requirements were reduced at the same time they were allowed into commercial lending activities like junk bonds and direct investment in real estate—all with insured deposits. At the same time, supervision and regulation of S&L's were greatly curtailed. This proved to be a recipe for disaster.

Mr. Chairman, our Banking Committee learned from the disastrous S&L experience and took precisely the opposite approach with banks.

In our bill, we raise capital requirements and improve capital enforcement. We improve and expand supervision and regulation. We don't allow any expanded activities with insured deposits. New activities can only occur in separately capitalized, separately regulated affiliates.

Mr. Chairman, let me say it again so it will be clear. Our committee learned from our country's disastrous experience with the S&L's and has recommended an entirely different course for the banks.

Now, however, we have a problem with the bill before us. The Banking Committee passed a very good bill. Our bill improved regulation and supervision. It called for early intervention when banks get in trouble. It increased capital requirements. It permitted sound steps toward modernization, geographic diversification, and new products and services.

But, Mr. Chairman, because of parliamentary maneuvering and committee rivalry, title IV of our bill has been replaced with a new creation by Chairmen GONZALEZ and DINGELL. Title IV was the title of our bill dealing with products and services. The Gonzalez-Dingell approach would not only prevent modernization of the banking system in these areas, but would turn the clock back significantly and harmfully. For example, under this approach, certain disclosure requirements that would apply to banks, but not securities firms that may also sell insured products, would essentially put banks out of the Government securities market, a longtime common business for them. This could cost taxpayers more to finance Government debt and expose the Government to a greater risk of manipulation and fraud. Second, banks could not offer mutual funds that included stocks of companies that have borrowed from the bank—essentially taking banks out of the mutual fund business. Third, the compromise prohibits banks from conducting discount brokerage activities within the bank, whether or not the bank is affiliated with a securities firm. Discount brokerage is essentially risk free and provides much needed fee income to banks. Fourth, interstate insurance sales, even in States where the bank is licensed to sell insurance products, would be banned. A number of banks do this today. And fifth, both the sale and underwriting of title insurance is prohibited—a low-risk activity many banks engage in today. In fact, more than 20 percent of U.S. banks now sell insurance products. This looks to me like a cleancut case of a raid by the securities and insurance industries on what banks are doing now, not new products and services, but what banks are already doing and have done for many years. Now, Mr. Chairman, I like and respect all of these industries. Chairmen GONZALEZ and DINGELL are fine men and are among our most capable leaders, but we must vigorously oppose the changes they have made in this bill. If we do not, the taxpayers will pay a high price.

Mr. Chairman, the bill before us allows the banking industry to borrow some money to meet its short-term needs, then provides for bank insurance premiums to be applied to paying back this debt. But if we don't modernize the banking system, don't allow the banking system to make a living and pay its own way, then it will not be too long, I predict, before it will be back seeking taxpayer money. Mr. Chairman, I oppose any attempt to simply provide taxpayer loans to bail out failing banks without necessary reforms.

The Gonzalez-Dingell approach, in my opinion, virtually guarantees that the banking industry will be forced to seek taxpayer money from the Congress within a reasonably short period of time. We simply cannot afford to take that chance. We should delete title IV. We will be far better off without it. The status quo is better than a step backward.

Mr. Chairman it is an absolute tragedy that we can't move ahead with more significant banking reform, like that reported by the Banking Committee, at this time. But if we cannot, we must at the very least defeat this effort to reduce the ability that banks already have to pay their own way.

Mr. Chairman, I would like to briefly comment on several other aspects of this subject.

DEPOSIT INSURANCE

The Bush administration is claiming that it wants to limit deposit insurance, but that Congress won't go along with it on this much needed reform. Here's how the administration wants to limit deposit insurance. It would say that each person could have no more than $100,000 insured in a bank and another $100,000 IRA account insured. What they don't tell you is that under their proposal each individual could have these two $100,000 insured accounts at each of over 12,000 banks, over 14,000 credit unions, and 2,000 savings and loans. Their limitation on deposit insurance would be purely cosmetic.

INTERSTATE BANKING

Another myth regarding this bill is that if interstate banking is allowed, money will flow out of small communities to the big money center banks. This contention is not borne out by facts. My State of North Carolina, for example, has three big regional banks. We also have about 80 small- or medium-sized banks which do very well. Big banks are not taking money out of the small communities. It is the genius of our system that money flows to where it is needed.

THE CORE BANK PLAN

There are very serious problems with the core bank proposal. We now have in this country what some call a credit crunch. Many small businessmen who previously had been able to get loans are being turned down by banks. Regulators are reported to be cracking down, banks are trying to build up their capital, and for these reasons some banks are making fewer loans—even good loans—in this time of recession. The core bank proposal would shrink the size of the banking industry by around 30 percent—somewhere between 25 and 35 percent. Think about it. It already is difficult for small business to borrow money. Under the core proposal we would shrink the pool of funds for small business and consumers by another 25 to 35 percent.

The core bank idea does share a certain appeal, but it would create a massive credit crunch in our country and must not be adopted.

Mr. Chairman, I respectfully urge our colleagues to support the amendment to strike title IV of H.R. 6, resist the core banking proposal, and support the reforms in our bill.

It is shortsighted that we will not be able to achieve more real reform in this bill, Mr. Chairman, and I hope that the House will return to this subject soon.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. LENT], the ranking Republican on the Committee on Energy and Commerce.

Mr. LENT. Mr. Chairman, in my 2 minutes I would like to very quickly make two points. The best argument that can be made in favor of this motion to strike is that it will eliminate all of the confusion over bank powers, firewalls, functional regulation and underwriting, and it will restore current law.

The effect of this motion, if successful, will be to eliminate the controversial Dingell-Gonzalez agreement, which was not considered in any subcommittee, not in any full committee, either in the Committee on Banking, Finance and Urban Affairs, or the Committee on Energy and Commerce. But it was hatched in some smoke-filled room with only one member of the Committee on Banking, Finance and Urban Affairs present, and that was the chairman, the gentleman from Texas [Mr. GONZALEZ]. We learned this from the chairman himself during the Rules Committee consideration.

Oh, yes, Chairman DINGELL had his subcommittee chairman in the room. The gentleman from Massachusetts [Mr. MARKEY] was there. The gentlewoman from Illinois [Mrs. COLLINS] was there. But not one subcommittee chairman, not even a freshman member, from the Committee on Banking, Finance and Urban Affairs was present.

Point No. 2, for those Members who like the insurance provisions in the Dingell-Gonzalez amendment, be advised that the entire text of the Jimmy Hayes amendment proposed at the request of insurance agents will be included in the Republican motion to recommit with instructions. So if you are considering a vote against this motion to strike, think again. You can vote for the motion to strike and then vote in favor of the insurance agents provision.

Mr. BARNARD. Mr. Chairman, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, may I pose a question for us to consider: Why does the banking industry make so little money today? There are a number of reasons. Principal among them is that other deliverers of financial services have skimmed off much of the profit from products that were once major profit centers in banks.

Take credit cards for example. We do not have to go to a bank any more to obtain a multipurpose credit card. We can get one from our insurance company, from our auto manufacturer, or from AT&T, our long distance telephone company, to mention but a few.

Take car loans, too. We do not have to go to a bank for a car loan any more. We can go to GMAC Financial, Ford Financial, or to Chrysler Financial.

We do not have to go to a bank for a home mortgage. Many go to Sears, apparently the biggest originator of home mortgages in America today.

Nor do we have to go to a bank for a business loan. We can have an investment banker issue commercial paper or to issue long-term debt for us.

As the result of these encroachments, banks have come to put too many of their eggs in one basket. Too many of their eggs are now in the real estate and commercial lending basket, and as banks' traditional business has dried up, the business of the loans they still can make has risen.

Well, what do we do about it? That is what we are about today. What do we do about this situation.

My fear is if we adopt the bill as it comes to the floor, we do two things: we add to the regulator. Burden and associated costs for banks, and I believe some of that is unavoidable. We also reduce the ability of banks to make money. We further restrict their activities beyond that which is permitted by current law.

By striking this title, by striking title IV, we would set aside for now, the most contentious issue that divides us. There is no consensus on them; instead, there is enormous confusion on those issues.

Let us narrow the scope of this bill to cover those issues on which there is general agreement. Let us extend a line of credit to the FDIC so depositors in prized banks may receive their funds. Let us reform—in a modest, sensible way—deposit insurance. And, finally, let us permit some modest branching of banks across State lines.

To do those three things, to keep this measure relatively simple and straightforward, adopt our motion to strike title IV.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the reason the commercial banks are in trouble in this country is because they loaned money to Third World countries, because they loaned money on these LBO's that have all caved in, because they loaned money to commercial real estate interests that have built more commercial real estate than this country is going to need for the next 5 years. That is why we have trouble.

Now, they are saying to you now the solution is to let them into the securities industry, that lost itself $160 million last year all alone. They want to get into this business without safeguards, without firewalls, without protections for depositors, for investors, for taxpayers.

We already had a vote on this in 1982 for the savings and loan industry. Plenty of new powers, no safeguards.

The 1990's, we are going to have to pay $500 billion to bail out the S&L's. $500 billion? That is a national health care program for the 38 million people in this country that do not have any health insurance. $500 billion? That provides a good education for every child in our country. $500 billion? That rebuilds the infrastructure of this country. That will provide for the money for unemployment insurance that we need for the millions of people across this country with no job.

They ask you today to repeat the same mistake: new powers with no supervisions, with no regulations, with no firewalls.

We will give them the powers. That is what Dingell-Gonzalez does. We will allow them out with new responsibilities, with new opportunities. But we will make sure that in the end it is not the taxpayers, it is not the depositors, it is not the investors who are going to be left holding the bag, paying the bills. Because before this year is done, 70 billion for the commercial banks, 80 billion more for the S&L's. Do not go down that path.

Mr. BARNARD. Mr. Chairman, I yield 2 minutes to the gentleman from Idaho (Mr. LAROCCO).

Mr. LAROCCO. Mr. Chairman, as a member of the Subcommittee on Financial Institutions of the Committee on Banking, Finance and Urban Affairs, I have an inkling of what the House banking bill is all about. After all, we held 16 long days of hearings and 14 days of markups in subcommittee and full committee. We debated more than 300 amendments. I can tell you what I know about the banking bill: it is not a deregulation bill. It is a bill that responds to the financial realities of the nineties. Think of that. It is a bill that recognizes what goes on in the real world.

Members want to keep banking and commerce separate, but you are too late. Ford Motor Co. owns an FDIC-insured depository, an insurance company, a real estate company, and a mortgage and finance company.

Sears owns an FDIC-insured depository, a securities firm, an insurance company, a real estate company, and a mortgage and finance company.

What about American Express, which owns an FDIC-insured depository, a securities firm, an insurance company, and so on?

Banking. The Committee on Banking, Finance and Urban Affairs tried to deal with the real world. We dealt with safety and soundness provisions, and did a good job. We tried to end too-big-to-fail, and we did. We required early intervention. We set up strict high capital standards.

This bill that we are talking about today in title IV is not warmed over Garn-St Germain. That was not the bill that we reported out of the Committee on Banking, Finance and Urban Affairs. Those are not the goblins and ghoulies of Halloween here.

That bill lowered capital standards. That bill, unlike ours, did not require annual audits, because it did not. The regulators let bad S&L's go on for too long.

It was mentioned in earlier debate that the core banking provisions and that amendment was the only reform package we had today. Do you know what the other reform package was? The House Banking, Finance and Urban Affairs bill, but we did not get a chance to vote on that.

I can tell Members all about the firewalls in the bill of the House Committee on Banking, Finance and Urban Affairs. They were large. I can tell Members about how it takes away the regulators' discretion to ignore bad banking practices.

Mr. Chairman, let me tell Members that that bill was bipartisan. Let us vote for the Barnard-Hoagland motion to strike.

Mr. WYLIE. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. MCMILLAN].

Mr. MCMILLAN of North Carolina. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the motion of the gentleman from Georgia [Mr. BARNARD] to strike title IV. What we have in title IV actually reduces bank insurance powers under current law, further decreasing competition.

I also have serious concerns about the security portion. Few of us realize that over 80 percent of the underwriting of securities in this country is concentrated in five firms. Although the Dingell-Gonzalez version does allow corporate securities underwriting and sales, which should increase competition and enhance access to capital by small- and medium-sized businesses, the firewalls created are unnecessarily restrictive.

The best defense against abuse and self-dealing is ample competition. Under Dingell-Gonzalez, many banks will choose not to compete, leaving it all in the hands of five underwriters.

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The Committee on Banking, Finance and Urban Affairs' version of both insurance and securities provisions would have been far superior. Current law is our best option at this point.

Accordingly, I urge my colleagues to support the motion to strike title IV.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. Chairman, I am here today to speak on behalf of what I think is a fine compromise in the Dingell-Gonzalez substitute for this bill. The fact is that this Congress ought to deal with a better understanding of what is taking place on the Committee on Banking, Finance and Urban Affairs and what is taking place with banks in our country.

Ten years ago this country controlled 8 out of the top 10 banks in the world. Today we control 1 out of the top 50, and it is number 26. The fact is that that bank lost $850 million last quarter.

The banks in this country are in trouble, but we have 14,000 banks in the United States. We have more banks in the State of Texas than the entire rest of the world combined.

Yes, banks have found themselves in trouble, but those troubles have been passed right along directly to the American consumer, to the American taxpayer, and through no fault of that taxpayer.

We are now going to be bailing out the savings and loans to the tune of $1 trillion, and we are going to be bailing out the commercial banks, as was recently estimated by Mr. Siedman, to the point of $210 billion in this next year alone.

Let me just say, if we want to do something about building firewalls between what these banks want today and what they had 30 or 40 years ago, when they ran this country into the ground in the Great Depression, if we want to stand up to those institutions and tell them that, yes, they can have more powers, but no, they are not going to be able to break through the firewalls and come through those firewalls with whatever companies they want to have in the banking industry, getting whatever kinds of investments they care to and tell us, as the savings and loans told the people of this country, just give us a few more powers and let us grow out of our problems, if that is what we want to do, then we ought to go back to the banking system as it exists today and let the regulators take control of the banking system. Let the bankers come back in here, a couple years from now, with their new compromises that will again leave the American taxpayers on the hook.

It seems to me if we want to have a good, reasonable compromise on how to gain some more competitiveness in the American banking system, that we will endorse and support the compromise of the gentleman from Texas, Chairman GONZALEZ.

Mr. BARNARD. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from North Carolina [Mr. PRICE].

Mr. PRICE. Mr. Chairman, I rise today to support the Barnard-Hoagland amendment. This amendment would strike title IV, which contains the Gonzalez-Dingell compromise on financial restructuring.

I do so reluctantly, because I believe strongly that this House should legislate on these very important issues. Striking title IV would return us to the status quo, at least temporarily, and the status quo is not satisfactory. What we ought to be voting for is title IV as reported by the Banking Committee. The rule does not permit this, which is why I voted against the rule. And now we are faced with a version of title IV, the Gonzalez-Dingell compromise, which would weaken our banking system dangerously. The status quo needs changing, but this provision would make it worse.

I want to focus my remarks today on the importance of the legislation for the South, and the stakes for the South are tremendous. It is no accident that southern members on the House Banking Committee, both Republicans and Democrats, have been among the strongest supporters of true banking reform legislation, both in 1988 and this year.

By opening up the capital markets to more competition, the House Banking Committee version of title IV would have made it more likely that companies or local governments in the South could deal with financial institutions located in their own States and communities. These institutions know these companies and governments, have a stake in their community, and would help bring needed capital into my region and other regions. The Gonzalez-Dingell compromise, by contrast, would not only fail to do this, but would actually encourage the future concentration of the securities industry.

The House Banking Committee's original provisions to protect abuses from the affiliation between securities firms and banks were more than adequate: Separately capitalized affiliates, tough restrictions on activities between these affiliates, and a prohibition on the use of federally insured deposits to fund these securities activities.

A well-structured reform proposal, in my opinion, would increase competition in all these industries, provide effective and efficient supervision and regulation of all these industries, and provide consumers with more financial choices and lower prices. The Gonzalez-Dingell compromise meets none of these tests.

The Gonzalez-Dingell compromise, though it flies under the banner of reform, is basically designed to protect the securities industry. The securities industry is highly concentrated, much more concentrated than the banking industry. Companies trying to raise capital in securities markets and local governments trying to raise money through revenue bonds to make needed infrastructure improvements have to mainly deal with securities firms with their headquarters in New York.

I ask all of you what is so great about allowing New York firms to make profits on our local communities and then use them to pay exorbitant salaries to the young Gordon Gekko's of the world. I want strong local and regional institutions to be able to compete in this business. They could do so successfully and safely, and they would reinvest in the community and in the region.

We've heard a lot of stories about villains in the banking industry today, seeming to suggest that because of some bad individuals, we should punish an entire industry. If that is our standard, the securities industry deserves some pretty rough treatment considering Ivan Boesky, Mike Millken and others. They clearly do not deserve to be given a safe haven from competition as in the Gonzalez-Dingell compromise.

If people are concerned about community reinvestment, they will support the striking of this title. Unfortunately, for now, this is the only option available to us, to make sure we do not weaken our banking system further. We can and must develop positive provisions to maintain safety and soundness and also to strengthen our communities, our financial system, and our economy. But we must first strike this counterproductive provision.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I rise in opposition to the Barnard-Hoagland amendment, and at the same time I want to express my great respect and admiration for the gentleman from Georgia [Mr. BARNARD], my colleague and friend, and the gentleman from Nebraska [Mr. HOAGLAND]. The gentleman from Georgia [Mr. BARNARD] is one of the most knowledgeable members of the committee, and I reluctantly oppose the amendment. But I think that there has been a compromise on all parties in order to achieve a common goal.

I do not like all elements of the compromise. I was for diversified holding companies. It is not in there. I wish it were.

The Barnard-Hoagland amendment will delete all provisions of the compromise title IV which was negotiated by Chairmen GONZALEZ and DINGELL, which forms the underlying text under consideration by the House.

The compromise title IV of the bill is a true compromise. Almost by definition, a true compromise means that all parties have had to give up something in order to achieve a higher goal. In the case of this bill, all parties involved had to give up something in order to advance the process of reforming the outdated laws governing our financial system. This is clearly the case for this compromise legislation.

For example, the text of the compromise does not allow the creation of diversified holding companies. I supported that. This is an important provision included in the Banking Committee version of title IV. However, the Energy and Commerce Committee version of title IV would not have allowed banks to engage in any insurance activities. The compromise includes almost all of the Banking Committee provisions regarding the ability of banks to sell insurance. These two examples illustrate that the compromise text of title IV is a true compromise.

It will leave a largely positive mark on the financial industry. The clearly outdated Glass-Steagall provision which has existed for over 50 years is finally repealed by the compromise. This is a clear victory for common sense. Our financial industry has changed dramatically over the last 50 years and it is about time our laws were updated to reflect this important fact. Repealing the Glass-Steagall Act is a strong step in the proper direction.

In addition, the compromise contains an amendment I offered during the full Banking Committee markup which is an important safeguard of taxpayer funds. The provision follows a similar proposal I offered which was accepted in the FIRREA legislation of 1989. Simply stated, the provision will save hundreds of millions of dollars to taxpayers and will permit insured banks and thrifts to combine their operations. This is an important part of title IV since it allows private capital—not taxpayer funds—to be used for banks or thrifts which may experience problems. Clearly, this amendment, which enjoyed unanimous bipartisan support during the full committee markup, is responsible legislation which will protect the taxpayers. Voting to delete title IV would also remove this important provision.

Another positive aspect of the compromise title IV is that it retains most of the so-called firewalls proposed by the Banking Committee. Firewalls are necessry to prevent an unsafe mixing of commerce and banking activities; they are a safeguard of taxpayer money which is backing the deposit insurance system. While I, too, wish the final version of the firewalls would have not modified the firewalls proposed by the Banking Committee, they still provide important protection against losses by the taxpayers.

Moreover, title IV is part of the central effort of this legislation; namely, to bring about true reform of the financial system of our country. For many years, it has been obvious to most members of the Banking Committee that basic reform of the financial system is in order. Our banks are now experiencing difficulty in their competition with foreign banks, primarily because of the fact that more than 20 foreign banks are larger than the largest U.S. banking organization. This means our banks often don't have the ability to provide the amount of funds needed by their international customers at a reasonable rate. Continuing to lose this international competition against our economic competitors would be a vast economic defeat for our economy and our Nation as an international leader.

In addition, it is time to recognize that our financial industry is operating in conditions which are vastly different from the conditions which existed 50 years ago. Today, computers, satellite communications, fax machines, and a host of other technologies as well as new financial products exist which have greatly changed the financial environment. This change has resulted in a much more integrated financial services market which is capable of offering more products to customers. I think consumers have benefitted from many of these changes. As a result, I believe our legislation must reflect these changes and permit the industry to meet the challenges of the future. The compromise represented in title IV is a first step in that direction.

Finally, the compromise reasserts the congressional responsibility to lead in the area of financial services reform. For many years, the regulators and the courts have taken it upon themselves to bring about changes which should have been the result of carefully considered legislated changes supported by elected officials. The courts and the regulators should no longer be permitted to do the work of the Congress.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong opposition to this amendment. There is an idea floating out there in the ether that if we move to strike title IV, we are being neutral. Well, we are not putting anything in. We are not dealing in any way with it. So, therefore, it is right down the middle. Hogwash.

If we strike title IV, we are weakening this bill to the point of death. If we strike title IV, we are not putting in the moderate protections that the Committee on Banking, Finance and Urban Affairs originally put in. We are putting in no protections at all.

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And the regulators, who have proven to want to deregulate and deregulate, they do not look at the Treasury, the Federal Reserve and the OCC, particularly the Fed. They do not look at the loss to the Treasury. They simply look at the health of the banks, and the health of the banks goes up and down. And they let them into new industries, and for a few years they make profits. And then the plug is pulled and they lose money, and the taxpayer, not the Fed, is left holding the bag.

This deregulation will go on like a frenzy if we strike title IV. Taxpayer dollars will be used for all kinds of new activities.

I have been told we should not strengthen the securities industry in New York. That is right. But let me say something. The securities industry in New York is not insured by the taxpayer. Anyone can pop up and decide to get into the securities industry, and if they fail they lose their money, not your constituents' money.

But when the banks get into these new fields they lose taxpayer money. Unless we have firewalls, we cannot protect the taxpayer.

Do not vote for this amendment or we will cripple this bill so that it will be a travesty.

Mr. GONZALEZ. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, I thank the gentleman for yielding time to me.

I want to also emphasize the fact that striking title IV is not a vote for the status quo. Rather it is a vote to let the unelected regulators and judges decide these issues as they have for the past few years. And believe me, they have not done the best job of it.

If Members want to delegate their powers to the unelected bureaucrats, then vote to strike. But if they want to be responsible Members of Congress, then I urge them to oppose this amendment.

I want to remind my fellow Members that the effect of this amendment will be to eliminate all of the important provisions of title IV. For example, title IV closes a loophole opened by the Comptroller of the Currency who ruled that national banks may sell insurance nationwide from a small town. Title IV clarifies congressional intent by limiting such sales to small towns in the State.

But indeed, there is a legal question as to whether the provision allowing national banks to sell insurance in small towns exists. Without the clarification of this legislation, national banks could lose all of their powers to sell insurance in small towns.

The provisions of the legislation give States the opportunity to decide whether out-of-State banks should be allowed to sell insurance in their State. What could be fairer than that? Yet that provision would also be stricken by this amendment.

Title IV includes important consumer protection when banks sell insurance. In particular, it forbids the solicitation of insurance required by a loan until there is a written loan commitment. It also protects consumer confidentiality.

These crucial consumer protections would be lost if the motion prevails. Further, already consumers have lost some of their confidence in insurance. This has been caused by insurance failures like that of Executive Life and Mutual Benefit Life. As a result of those insolvencies, insurance companies' stocks fell sharply. For example, Aetna by 8 percent, Cigna 3 percent, Conseco 22 percent, Travelers 7 percent. And who was hurt by this? People like Olga Pegelo, who is losing 30 percent of her retirement annuity benefit, John and Jane Q. Public who put their kid's college education money in guaranteed investment accounts, and senior citizens whose pension funds were put into such GIC's.

Now if banks are allowed to get into insurance sales or insurance underwriting and the bank's insurance activities fail, consumers will lose confidence in the banking industry. As Chairman DINGELL points out: banking is not about money, it is about confidence.

And if you support the insurance provisions of the bill, I would not rely on a motion to recommit, because you don't know what else may be in that motion. I doubt it will contain our strong consumer protections.

We are cheating the homeowners who are trying to buy their own homes and save a little money for their kids' college education. We are cheating the senior citizens whose pension funds have been put in insurance. Do we want to do this to our constituents? Do we want to do this to our banking system? The answer is no.

Both the Banking Committee and the Energy and Commerce Committee have spent an untold amount of time prudently examining all of the very important issues contained in title IV regarding financial services. When such a good faith effort has been made by the two committees with primary jurisdictional interest, it is inconceivable to me that anyone would be willing to push all that aside simply because they don't like the results.

The issues raised in title IV were around in 1988, they are here now, and they will be back again in future years until we resolve them. It makes no sense to pass this banking legislation without title IV. Many of us wanted a narrow bill originally but the administration asked us to consider a broad bill. Well now we have a broad bill and those who were originally asking for a broad bill don't like the results. Now that is ironic and unfortunate.

Let me also point out that title IV is supported by a wide variety of groups, from the Consumer Federation of America to the American Insurance Association, from the Independent Bankers Association of America to the Independent Insurance Agents of America.

I urge rejection of the amendment.

Mr. WYLIE. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Chairman, I rise in support of the Barnard amendment. But I would stress that the compromise language on title IV wrought by the distinguished chairs of Energy and Commerce and Banking Committees is clearly preferable to the title approved by the Banking Committee. For instance, under the compromise, banking and commerce would remain separated. However, the manner in which this compromise is being brought before this body is a procedural problem of profound proportion. The extensive statutory language contained in this compromise has been under scrutiny for only a couple of days. It is uncertain what changes would be made in the compromise language and if this is the time to make such changes to a fragile banking system. It appears that the compromise approach represents a son of Glass-Steagall, which in some ways would construct more impervious barriers than the original Glass-Steagall wall between commercial banking and investment banking.

Many of the safeguards incorporated in the compromise title IV seem reasonable to this Member.

My opposition to the compromise is derived from the concern that it has not been properly vetoed and that a more narrow bill is now the only banking legislation which can pass this session without risking a Presidential veto.

The most important aspect of this bill at this date is the refurbishment of the troubled FDIC bank fund. Let's not play games with the American public's confidence in the banking system.

I would stress, however, that a compromise decision to strike title IV would not represent a signal for regulators to mount motorcycles of change. In thrashing through these issues, Congress is flashing a yellow, not a green, light for expanding bank powers. Regulatory caution on this subject should be the watchword.

Mr. WYLIE. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am pleased to support the Gonzalez-Dingell compromise. I urge my colleagues to oppose the amendment to strike its provisions from H.R. 6.

Mr. Chairman, I am particularly interested in the insurance provisions of the compromise. On this score the compromise is very carefully crafted to bar current excesses without overregulating.

Mr. Chairman, there is absolutely nothing in title IV that would in any way limit the ability of my State to allow our banks to sell insurance. And that's very important to me, because Indiana banks have long enjoyed the power to sell insurance. I would strenuously oppose any effort to limit Indiana's freedom to make that decision.

But, by the same token, I must oppose efforts to limit the right of any State that chooses a different path. A State should be free to decide whether it wants banks to sell insurance to its citizens. Some States will say "Yes;" some States will say "No." But all of the States will listen to their citizens and reflect their desires.

Mr. Chairman, the Gonzalez-Dingell compromise protects States rights. Consider the small town exemption that is now found in the National Bank Act. The Comptroller has ruled that a national bank can set up shop in a small town and then sell insurance to customers located anywhere in the State, anywhere in the United States, in fact, to customers located in any place at all.

That doesn't make any sense. Congress enacted the smalltown provision to permit the sale of insurance in small towns. We were concerned that rural residents might not have access to insurance services. But Congress did not intend to allow national banks to sell in big cities.

The Comptroller's ruling just makes the banking laws a game: A national bank can evade the limits on insurance activities just by using a small town as a launching pad to sell to residents of a big city.

Mr. Chairman, that result is the wrong result.

It's not enough to say that we should strike title IV in order to preserve current law. Congress is here to decide whether new laws need to be enacted. When a regulator or court reaches an absurd conclusion, it's up to Congress to act.

Whatever the result of today's debate, I hope we don't come to the day when legislation can be defeated just because it offers a new idea. Let the policies of title IV be debated on their merits. Let the rights of States be upheld.

Mr. Chairman, I urge my colleagues to defeat this amendment.

Mr. BARNARD. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Louisiana [Mr. BAKER].

Mr. BAKER. Mr. Chairman, I thank the gentleman for yielding time to me.

I wish to point out that the current provisions in title IV operate on a very simple and easily understood principle. "If something is broken, let us see if we can make it worse." The current suggestions for governing banks powers in the proposed title IV narrow the scope of activities which a commercial bank may engage in today, so that banks which are operating on razor-thin margins of profit are going to be told that if we adopt this title IV that they have to try to survive, meet higher capital standards, pay more regulatory costs, while they have a smaller field in which to do business.

This is all occurring while nonbank commercial enterprises are conducting bank activities. It is not a surprise that large commercial enterprises who used to go to banks and borrow money now extend their own commercial paper and get their credit needs met through the securities market. They are no longer customers of bank. Yet we heighten the regulatory net. We tell banks they cannot extend products and services, and ironically, we refuse to let commercial enterprises inject their resources into struggling banks. There will be amendment offered to allow commercial enterprises to help weak and sick banks, so we do not have to turn taxpayers and ask one more time, "Please help bail out a struggling institution." What the Banking Committee wanted to do was to allow commercial enterprises to engage and help strong banks get even stronger, and keep them from becoming risky enterprises.

What we have in title IV is not modern, progressive, sound, reasonable economic policy, it is the Bank of England's policy in 1634, except we are taking out the progressive parts.

Let us not adopt title IV as it now stands. Let us adopt the amendment of the gentleman from Georgia, which makes absolute sense. Let us keep our banks alive. Let us come back on another day and adopt a policy that gives free enterprise a chance to work, and keeps our taxpayers from being robbed.

Mr. GONZALEZ. Mr. Chairman, I am delighted to yield 2 minutes to the gentleman from Minnesota [Mr. VENTO], another very distinguished member of the Committee on Banking, Finance and Urban Affairs.

Mr. VENTO. Mr. Chairman, I rise in opposition to the Barnard amendment to strike. This administration wants what every administration wants. They want $70 billion in new borrowing and all the flexibility they can get. They do not want Congress giving the type of direction and leadership that is necessary in terms of how those dollars are to be spent or the policy that govern banks.

One of the major problems is that the House is trying to put some limits on the exposure of the deposit insurance fund, and in this title, we put a number of restrictions and safeguards.

What has gone on for the last 10 years or 15 years is that Congress has not had the ability or the opportunity to legislate in terms of the new powers, and the regulators and the courts have been granting these powers hand over fist without the proper types of controls. The regulators have taken an attitude of hands off. We know all about the revolving door and the types of interests that persist in that phenomena and the difficulty of bringing this bill to the floor for so many years.

Reasonable people can differ about the types of firewalls, the types of safeguards that we have, and obviously the Energy and Commerce Committee and the Committee on Banking, Finance and Urban Affairs differed in terms of their particular provision, and the chairmen of the committees got together and worked out what is a good compromise and brought it to the floor. That is the normal process.

Now we have members of the Banking Committee saying, let us abdicate our responsibility here. Some do not like the outcome of what is in title IV of this bill. They say abandon it. They will leave nothing in place and give the administration the $70 billion they are asking for, and all the flexibility they want without any voice of Congress or the necessary safeguards in law.

That is not why we were elected to Congress, and I would expect that my colleagues were elected to serve here and want to make decisions, not abdicate their responsibility. We are receiving a lot of communication from small bankers and others who have indicated that their interests would be best served if we provided a path of certainty and predictability with regard to regulation in law, not regulations that can be changed. The President provided an example of that just last month when he unilaterally attempted to change the policy of bank forbearance.

□ 1620

He decided that FIRREA is too tough. All of a sudden, the President opts for liberalization in terms of credit, and that is an example of what happens when you get politics and policy mixed together. We need law, not political opinion and regulation.

Mr. WYLIE. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, as I stated earlier this week, this bill started off well in the Banking Committee but it has been all downhill since. I am still amazed at the back-room, back-door product that came at the last minute and pretends to be a competitive policy.

Let me say it again: There are only two classes of people with capital for the banking industry. One is called investors, and one is called taxpayers. Once the investment community fully digests the direction of this bill, investors will take their dollars elsewhere. Investors will correctly perceive that Congress cannot deal with the bank charter obsolescence in a meaningful way, that Congress does not understand the principle of "diversification of risk," and that Congress is dooming a bank charter to extinction. When investors go, we'll have to tell our constituents to get out their wallets again.

One way to begin to turn the bill around is to delete title IV, an extremely dangerous title. This title does not undertake the modest product and service reforms of the original H.R. 6, but it strips away existing authority—it removes activities that have not caused losses to the bank insurance fund. In fact, these activities have helped bank profitability. It removes legitimate business from banks and further isolates a bank charter. This title is going to lead to a lot of taxpayers owning a lot of banks and real estate.

Let me list some specifics:

First, the bill rolls back existing insurance powers on a broad level. We're divorcing banking from insurance except in very limited cases. The original bill had a compromise where insurance and banking could mix at the diversified holding company level. Both bankers and insurance people were grumbling. That usually means one has found the right compromise.—Now one party is jumping for joy while the other party cannot believe what has happened.

Second, the bill allows banking and securities activities to mix, but places such restrictive firewalls that few banks will take advantage of the provision.

Third, the bill forces national banks not having a securities affiliate to place mutual fund sales and brokerage activities in a subsidiary, increasing overhead for no practical reason.

Fourth, the bill changes for purely political reasons the grandfather date for State banks, within a holding company, to sell insurance nationwide for purely political reasons, thus harming one institution that has legally established the business.

The Bank Committee established a comprehensive structure that would have allowed for the safe-and-sound diversification of business, leading to improved profitability for the industry. It would have provided adequate protections to ensure that financial services would best service the consumer while not jeopardizing insured deposits. This comprehensive structure was thrown out a back window.

Finally, I will say this again: Unless we strike this provision and make other improvements this week, I think someday this bill will be recognized for what it truly is: A colossal policy failure and another indication that this Congress cannot understand markets and make them work for consumers and taxpayers alike. It will be another indication that congressional action erodes our national competitiveness in a world that rewards only efficiency and innovation. It will be another sign that our national treasure, the earning power of working Americans, is taxed not for investing in jobs, or education, or infrastructure, or reducing the deficit, but rather for filling the black hole of political and economic incompetence.

Mr. GONZALEZ. Mr. Chairman, I yield 30 seconds to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, I rise in strong opposition to the amendment jointly offered by the gentleman from Nebraska and the gentleman from Georgia.

Title IV of H.R. 6 is the product of months of hard work and a spirit of cooperation between the Banking and Energy and Commerce Committees. For the past two decades, bank reform proposals have come through this Congress and died in committee or on the floor. Finally, we have a rational, constructive product which is supported by the chairmen of both the Banking and Energy and Commerce Committees.

The Hoagland-Barnard amendment would destroy this compromise and derail this bill. American depositors and American taxpayers need prudent, reasonable financial reform. Title IV will protect their deposits and prevent another massive taxpayer bailout.

Let's look beyond the rhetoric to the reality of today's banking industry. Regardless of the outcome of this bill, banks are entering the securities business—it is a reality. Maintaining the status quo, and eliminating title IV, means that regulators will continue to chip away at existing law—Glass-Steagall—and we will witness an expansion of bank powers without sufficient oversight.

What is not a reality today is a package of firewalls which:

Will insulate federally insured deposits from traditionally nonbank activities.

Will stand up in the face of economic stress.

Cannot be dismantled by regulators at some future date.

Title IV contains these firewalls:

Federal banking regulators have demonstrated on all too many occasions that they cannot regulate this Nation's banking industry. If they cannot check the Bank of New England, or First Republic how can they possibly monitor even larger banks, with a wide range of financial interests, without strong firewalls? I asked this very question of Secretary Brady, and he could not respond. My colleagues, if the Secretary of the Treasury cannot state unequivocally that Federal regulators can provide effective oversight of much larger banks with expanded powers, then how can this Congress justify the removal of structural safeguards from this bill?

I urge all of my colleagues to oppose this amendment.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I just would like to give you the perspective of this amendment from an insurance agent's point of view. And there are a lot of them in this country, hundreds of thousands of them.

If we strike, everybody says that the law remains the same, but there was a court decision, a Delaware court decision, which says that a State bank can buy an insurance agency and do business across State lines. Now, that State bank can be purchased by a Federal bank, and if it is purchased by a Federal bank, it, therefore, follows that the Federal bank can do business across State lines in the insurance industry.

What you are going to do is you are going to allow Federal banks to get involved in the insurance industry in business across this country, thus destroying the livelihood of thousands of insurance agents in the long run.

The only alternative, if this is struck, is to pass the recommittal motion with the Hayes amendment in it. So I think everybody ought to be aware of it.

If you are concerned about the insurance industry and the insurance agents in this country, then you should either vote not to strike or to vote for the recommittal motion with Hayes in it.

Mr. WYLIE. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, we are not dealing in this amendment or in this bill with any new bank powers at all. We are not dealing with S&L's. We are not dealing with corruption.

We are dealing with an institution group that needs to be helped, and that is commercial banks, to be more profitable.

What the amendment does is strike out of here the provision that strips out from banking powers their existing powers in the insurance area. No new powers are being stripped out, existing powers are. It creates an unlevel playing field, and we should not be creating that. We should be supporting the gentleman from Georgia [Mr. BARNARD] in not allowing that to happen.

Currently, nonbank-bank holders, companies that own those banks, can do things that banks will not be allowed to do if this provision passes. One thing, for example, banks are primary distributors of major Government securities in this country to the buyers. They do it via telephones in this country, and securities companies would be allowed to continue to sell their securities by telephone and distribute them, but banks would not be.

This is a terrible provision that the Committee on Energy and Commerce has sent over in title IV. If we had the Committee on Banking, Finance and Urban Affairs' version of it, I would be supporting it.

We ought to keep the present playing field. Vote for the Barnard amendment. Strip out this bad bill.

Mr. BARNARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman and Members of the Committee, let me say that the chairman of our Committee on Banking, Finance and Urban Affairs has received tremendous kudos for the product of the House committee bill which was passed, even in the New York Times. It talks about the House Banking Committee headed by HENRY GONZALEZ, "made a good plan better by adding decisive safeguards."

Yes, the Committee on Banking, Finance and Urban Affairs brought a good fine product to this House, but it is gone. It is gone just by the agreement of three or four chairmen, powerful chairmen, but that is neither here nor there.

What is the substance of where we are right now? No. 1 is, we are not revisiting Garn-St Germain. We are not giving the banks one additional new power.

They talk about special interests, the banks are special interests, that they have sought this bill because of special interests. Do you know why we are here today with this compromise? It is because of special interests.

You pass the Gonzalez-Dingell bill, you are going to be fortifying the interests of this country. They have got all of the good investment powers today, and they want it all, but they will tell you that it is because of the fact that banks are not capable, that they do not want them to have it.

Second, the other special interest is the insurance industry. My friends, will you tell me what risk there is in selling insurance? The States have legislated all over this country for banks to sell insurance. No bank has ever gone under because of insurance. That is the other special interest that is being addressed in this Gonzalez-Dingell bill.

My friends, this compromise is a full step backward. It is a punitive step. It is trying to penalize the banking industry, not trying to make it more profitable.

The bailout is to be paid by whom? Not in this bill is it supposed to be paid for by taxpayers. It is supposed to be paid for by the increased premiums of banks.

Will you tell me that if you make banks less profitable they will be in a better position to pay these premiums?

Banks are in the forecast of paying as much as 40 cents per hundred. It used to be 8 cents per hundred. Now it is 23 cents per hundred. They have taken the cap off of 30 cents a hundred, and the GAO says that we need 40 cents a hundred.

My friends, if we expect banks to pay this bailout, give them the additional opportunities to make more money. Also, give them the additional opportunities to increase their capital base.

We are doing nothing in this bill to enhance the bank holding companies to attract money and increase their capital. Now, my ambition is that we would wean ourselves away from deposit insurance.

Let us let the banks, like other financial entities, depend upon their capital for their risk.

□ 1630

But we are not doing that. We are saying that banks are incapable of doing it, so therefore let us penalize them more. If we do not let banks be profitable, they cannot pay for this and the taxpayers will eventually pay for it. We will return if this amendment is defeated.

Mr. GONZALEZ. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Michigan [Mr. DINGELL], our comrade in arms and the chairman of the Energy and Commerce Committee, to close debate.

Mr. DINGELL. Mr. Chairman, I want to commend my good friend and colleague, the gentleman from Texas [Mr. GONZALEZ] for a superb piece of work in handling the legislation before us.

I want my colleagues to know that this is basically a sound bill and I urge them, with title IV, to support it.

I will tell my colleagues that title IV preserves and reinstalls good and intelligent and strong regulation to prevent possible wrongdoing.

If you do not like the current situation, then you should vote against the amendment offered by the gentleman from Georgia [Mr. BARNARD].

If you liked Garn-St Germain, then by all means you should vote for the Barnard motion to strike, because you are going to see all the consequences which occurred from the adoption of Garn-St Germain transpire with regard to the banks now instead of the savings and loans.

The same people downtown who supported Garn-St Germain and the same people in industry who supported it are actively supporting this motion to strike. Title IV does away with the possibility of substantial evils in the industry. It does not move discount brokerage, mutual funds, government securities, or private placements out of the banks.

The compromise offered by my good friend, the gentleman from Texas and I, is a procommunity banker, prodepositor, proinvestor, and protaxpayer amendment. I would urge my colleagues to support it for that reason.

Title IV has the support of the AFL-CIO, the Consumer Federation of America, and believe it or not, Ralph Nader. I do not want my colleagues to vote against it because of the last supporter.

I will tell you it permits the banks to compete. It permits them to do so with a safety net. The safety net would help the banks. It would also assure that the taxpayers and the investors are protected.

It continues the prohibition against industrial and other commercial firms acquiring banks.

It links the repeal of the Glass-Steagall law separating banking and securities activities to the establishment of strong firewalls and it would assure the integrity not only of banking, but of the securities industry.

It requires tough, functional regulation of new securities powers by giving the securities regulators control over the securities activities of banks, and it preserves to the Federal Reserve Board its current role of an umbrella regulator of the holding company.

I believe that it is important to reject the amendment offered by the gentleman from Georgia because the legislation that we have here before us, title IV, allows regulators to require the divestiture of banks or securities affiliates who repeatedly violate firewall provisions.

Title IV requires regulators to provide annual reports on the adequacy of enforcement and regulatory resources. It also requires auditors to do something that they were never required to do under Garn-St Germain and under current law. It requires auditors to detect and report fraud which they find in the conduct of their activities.

Mr. Chairman, I urge my colleagues to protect this country against another irresponsible bailout. I tell you that title IV is desperately needed to assure that the Government safety net is protected, that taxpayers are protected, and that the corpus of the bank insurance fund is protected. To do otherwise, to vote for the Barnard amendment, is to turn the whole business over to the banks, and, if you want to help the big fat cat banks that brought themselves to this low state, vote for Barnard.

Mr. ROTH. Mr. Chairman, I rise to support this amendment.

The bill we have before us has a life-threatening illness, and removing title IV is the surgery needed to save this bill. We need reform, but title IV is a big step backward.

Our committee worked for months to: Strengthen the deposit insurance system; improve financial services for American businesses and families; inject more competition into our financial markets; and ensure that the United States remains master of its own economic future.

Our original bill made sure we don't simply pour more funds into the deposit insurance fund, without fixing the underlying weakness in our banking system. But what is in the bill now leaves all our work in ashes, and is a prescription for more taxpayer bailouts.

At the final hour, when the House should be voting on our committee's reform bill, we find in our bill a substitute which cuts the heart out of our effort to strengthen our banking system. Title IV meets none of the goals which we have worked for.

I must ask my colleagues: What has become of the integrity of the House, when a year's work by our committee can be thrown out the window by two people meeting in a closed room? The American people know that a vibrant, competitive financial services industry is crucial to the future growth of our economy and the creation of new jobs.

But title IV only creates the illusion of progress, while in reality binding our financial institutions with restrictions, exclusions, and prohibitions which will stifle competition. Title

IV keeps our financial services sector in the age of the horse-and-buggy, while other nations get ready to move into the 21st century.

With the outmoded laws we have today, it is no wonder that none of the world's top banks are American, and that 10 percent of American banking is now foreign controlled.

Title IV also strikes a blow against progressive banking laws such as Wisconsin's, by preventing our State banks from offering services that have been their right for nearly 50 years. My State has shown how progressive banking laws, combined with effective supervision and conservative, sound bank management results in the best-capitalized banks in the Nation.

Wisconsin should be the model we follow, but title IV runs counter to everything that we have accomplished in our State. That is why I support this amendment. We must take this bad compromise out of the bill and move on to enact a true reform measure.

Mr. MCMILLEN of Maryland. Mr. Chairman, I urge rejection of this amendment.

Mr. Chairman, I rise in opposition to this amendment. If you strike title IV, you are eliminating one of the major consumer safeguards in the bill—the prohibition against the sale of bank securities in the lobby of such banks. Specifically, I am making reference to section 15D(d) of the committee print.

These provisions are based in large part on legislation which I introduced with Representative SCHUMER earlier this year, H.R. 1023, the Depositor Protection and Fraud Act of 1991.

The origins of the legislation go back to a House Banking Committee hearing held 2 years ago, when I served on that committee. The hearing focussed on the sale of lobby debt, and how many investors purchased high yield bonds under the false assumption that they were federally insured. The example was, of course, Lincoln Savings & Loan.

This was how Charlie Keating ripped of his customers: Selling them worthless securities under the assumption that the securities were federally insured.

The provisions we are enacting today will prevent a repetition of this tragedy by prohibiting the sale in a retail branch of a federally insured bank or S&L of certain specified types of debt or stock of the bank or any affiliate of the bank. This restriction does not apply to shares of certain mutual funds.

I would commend the chairmen of the subcommittee and the full committee for their actions in this area.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia [Mr. BARNARD].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BARNARD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 200, noes 216, answered "present" 2, not voting 15, as follows:

[Roll No. 362]

AYES—200

Allard	Grandy	Orton
Anderson	Green	Oxley
Andrews (NJ)	Gunderson	Packard
Archer	Hall (OH)	Payne (VA)
Armey	Hamilton	Peterson (FL)
Aspin	Hansen	Peterson (MN)
AuCoin	Hastert	Petri
Bacchus	Hefley	Pickett
Baker	Hefner	Pickle
Ballenger	Henry	Porter
Barnard	Hoagland	Price
Barrett	Hobson	Pursell
Bateman	Horton	Ravenel
Bereuter	Houghton	Ray
Bliley	Hoyer	Rhodes
Boehlert	Hubbard	Ridge
Boehner	Huckaby	Riggs
Broomfield	Hughes	Rinaldo
Byron	Hunter	Ritter
Callahan	Hutto	Roberts
Camp	Hyde	Roe
Cardin	Ireland	Roemer
Carper	Jenkins	Rogers
Chandler	Johnson (CT)	Rohrabacher
Clement	Johnson (SD)	Ros-Lehtinen
Clinger	Johnson (TX)	Rose
Coble	Johnston	Roth
Coleman (MO)	Kasich	Santorum
Condit	Kolbe	Schaefer
Coughlin	Kopetski	Schiff
Cox (CA)	Kyl	Schulze
Cox (IL)	Lagomarsino	Sensenbrenner
Crane	LaRocco	Shaw
Cunningham	Laughlin	Shays
Darden	Leach	Shuster
Davis	Lent	Sisisky
de la Garza	Lewis (CA)	Skaggs
DeFazio	Lewis (FL)	Skeen
DeLay	Lightfoot	Skelton
Dickinson	Livingston	Slaughter (NY)
Dooley	Lowery (CA)	Smith (IA)
Doolittle	Machtley	Smith (OR)
Dornan (CA)	Martin	Smith (TX)
Dreier	Matsui	Snowe
Edwards (OK)	Mavroules	Spence
Emerson	McCandless	Spratt
Engel	McCollum	Staggers
English	McDade	Stallings
Erdreich	McEwen	Stump
Ewing	McHugh	Swett
Fawell	McMillan (NC)	Tallon
Fazio	Meyers	Taylor (NC)
Fields	Michel	Thomas (CA)
Flake	Miller (OH)	Thomas (GA)
Ford (TN)	Miller (WA)	Thomas (WY)
Frank (MA)	Molinari	Upton
Franks (CT)	Mollohan	Vander Jagt
Frost	Moorhead	Vucanovich
Gallegly	Morella	Walker
Gallo	Morrison	Weber
Gekas	Myers	Wolf
Geren	Natcher	Wylie
Gilman	Neal (NC)	Young (AK)
Gingrich	Nichols	Young (FL)
Goodling	Nowak	Zeliff
Goss	Nussle	Zimmer
Gradison	Olin	

NOES—216

Abercrombie	Bryant	Downey
Ackerman	Burton	Duncan
Alexander	Bustamante	Durbin
Andrews (ME)	Campbell (CO)	Dwyer
Andrews (TX)	Carr	Early
Annunzio	Chapman	Eckart
Anthony	Clay	Edwards (CA)
Applegate	Coleman (TX)	Edwards (TX)
Atkins	Collins (IL)	Espy
Barton	Collins (MI)	Evans
Beilenson	Combest	Fascell
Bennett	Conyers	Feighan
Bentley	Costello	Fish
Berman	Coyne	Foglietta
Bevill	Cramer	Ford (MI)
Bilbray	DeLauro	Gaydos
Bonior	Dellums	Gejdenson
Borski	Derrick	Gephardt
Boucher	Dicks	Gibbons
Brewster	Dingell	Gilchrest
Brooks	Dixon	Gillmor
Browder	Donnelly	Glickman
Bruce	Dorgan (ND)	Gonzalez
Gordon	McDermott	Sarpalius
Guarini	McMillen (MD)	Sawyer
Hall (TX)	McNulty	Saxton
Hammerschmidt	Mfume	Scheuer
Hancock	Miller (CA)	Schroeder
Harris	Mineta	Schumer
Hatcher	Mink	Serrano
Hayes (IL)	Moakley	Sharp
Hayes (LA)	Montgomery	Sikorski
Herger	Moody	Slattery
Hertel	Moran	Smith (FL)
Hochbrueckner	Mrazek	Smith (NJ)
Holloway	Murphy	Solarz
Horn	Murtha	Solomon
Inhofe	Nagle	Stark
Jacobs	Neal (MA)	Stearns
James	Oakar	Stenholm
Jefferson	Oberstar	Stokes
Jones (GA)	Obey	Studds
Jones (NC)	Olver	Sundquist
Jontz	Ortiz	Swift
Kanjorski	Owens (NY)	Synar
Kaptur	Owens (UT)	Tauzin
Kennedy	Pallone	Taylor (MS)
Kennelly	Panetta	Thornton
Kildee	Parker	Torres
Kleczka	Pastor	Torricelli
Klug	Patterson	Towns
Kolter	Paxon	Traficant
Kostmayer	Payne (NJ)	Traxler
LaFalce	Pease	Unsoeld
Lancaster	Pelosi	Valentine
Lantos	Penny	Vento
Lehman (CA)	Perkins	Visclosky
Lehman (FL)	Poshard	Volkmer
Levin (MI)	Quillen	Walsh
Levine (CA)	Rahall	Washington
Lewis (GA)	Ramstad	Waters
Lipinski	Rangel	Waxman
Long	Reed	Weiss
Lowey (NY)	Regula	Weldon
Luken	Richardson	Wheat
Manton	Rostenkowski	Williams
Markey	Roukema	Wilson
Martinez	Roybal	Wise
Mazzoli	Russo	Wolpe
McCloskey	Sabo	Wyden
McCrery	Sanders	Yates
McCurdy	Sangmeister	Yatron

ANSWERED "PRESENT"—2

Cooper	McGrath

NOT VOTING—15

Bilirakis	Dannemeyer	Rowland
Boxer	Dymally	Savage
Brown	Hopkins	Slaughter (VA)
Bunning	Lloyd	Tanner
Campbell (CA)	Marlenee	Whitten

□ 1654

The Clerk announced the following pair:

On this vote:

Mr. Marlenee for, with Mrs. Lloyd against.

Mr. DICKS changed his vote from "aye" to "no."

Messrs. GEKAS, McHUGH and HALL of Ohio changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 102-281.

AMENDMENT OFFERED MY MR. RINALDO

Mr. RINALDO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. RINALDO: Page 330, after line 5, insert the following new section (and redesignate the succeeding section and conform the table of contents accordingly);

SEC. 411. EMERGENCY ACQUISITIONS OF FAILING BANKS BY ANY COMPANY.

(a) FAILED BANK ACQUISITIONS.—Section 13 of the Federal Deposit Insurance Act is amended by adding the following new subsection:

"(1) EMERGENCY ACQUISITIONS OF FAILING INSURED BANKS BY ANY COMPANY.—

"(1) IN GENERAL.—Notwithstanding any provision of law, any company which is engaged in activities, or controls any company engaged in activities, that are not permissible for a financial services holding company pursuant to the Financial Services Holding Company Act may, with the prior approval of the Federal Reserve Board and subject to a determination by the FDIC pursuant to paragraph (5) of this subsection, acquire direct or indirect ownership or control of all of the assets of any insured bank if—

"(A)(i) at the time of the acquisition of control of such bank a receiver or conservator had been appointed;

"(i) such bank is an insured bank that the appropriate Federal banking agency has determined is in default or in danger of default as those terms are described in section 3(x); or

"(iii) such bank is a level 5 depository institution as that term is described in section 38 of the Federal Deposit Insurance Act; and

"(B) such acquisition is effectuated without financial assistance from the Federal Deposit Insurance Corporation under section 13(c) of the Federal Deposit Insurance Act.

"(2) CAPITAL REQUIREMENTS.—

"(A) IN GENERAL.—The Federal Reserve Board shall not approve any acquisition, merger, or consolidation under this subsection unless the insured bank or banks to be acquired will be level 1 depository institutions, as that term is defined in section 38 of the Federal Deposit Insurance Act, immediately after the acquisition.

"(B) MAINTENANCE OF HIGH CAPITAL/CAPITAL MUST BE PROMPTLY RESTORED.—Any insured bank which is acquired by a company pursuant to paragraph (1) that ceases to qualify as a level 1 depository institution shall before the end of the 60-day period beginning on the date such bank ceases to qualify as a level 1 depository institution—

"(i) restore its capital in an amount sufficient for such bank to requalify as a level 1 depository institution; or

"(ii) submit a capital plan to the Federal Reserve Board will restore the relevant capital measures to the level necessary to requalify as a level 1 depository institution.

"(C) FAILURE TO RESTORE CAPITAL OR IMPLEMENT A CAPITAL PLAN.—If an insured bank described in subparagraph (B) fails to take the actions described in clause (i) or (ii) of subparagraph (B) or if the capital plan submitted under subparagraph (B) is not approved by the Federal Reserve Board or if the insured bank fails to implement the capital plan, the company that acquired the insured bank under paragraph (1) shall divest any interest in all insured depository institution subsidiaries that do not meet all currently applicable capital standards.

"(D) APPLICABILITY TO COMPANIES UNDER PARAGRAPH (1).—If an insured bank to which this section applies fails to fully comply with the requirements of this paragraph, the acquiring company under paragraph (1) shall divest any interest in the insured bank or terminate all activities engaged in which are not permitted for a financial services holding company.

"(E) ESTABLISHMENT AND IMPLEMENTATION REQUIRED.—

"(i) IN GENERAL.—The Federal Reserve Board shall prescribe regulations to carry out the requirements of this section.

"(ii) DEADLINE FOR REGULATIONS.—The Federal Reserve Board shall, after notice and opportunity for comment, prescribe final regulations under clause (i) which regulations shall be final not later than January 1, 1993.

"(iii) COORDINATION WITH AGENCIES.—The Board and the appropriate Federal banking agencies shall coordinate the application of this subsection with the provisions of sections 5(e) and 38 of the Federal Deposit Insurance Act.

"(3) SAFEGUARDS RELATING TO THE INSURED BANK.—

"(A) No insured bank acquired under paragraph (1) shall—

"(i) extend credit in any manner to any affiliate;

"(ii) purchase for its own account financial assets or any securities of any affiliate;

"(iii) issue a guarantee, acceptance, or letter or credit, including an endorsement or standby letter of credit, to any affiliate; or

"(iv) extend credit to any customer of any affiliate except on an arms-length basis in compliance with section 23B of the Federal Reserve Act (12 U.S.C. 371-c-1).

"(B) In addition, the restrictions and limitations in section 4(n) of the Financial Services Holding Company Act shall apply to companies that acquire insured banks under this subsection as if those companies were financial services holding companies.

"(4) REGULATION.—

"(A) STATUS AS A FINANCIAL SERVICES HOLDING COMPANY.—Notwithstanding any other provision of law, a company described in paragraph (1) shall not be treated as a financial services holding company solely by virtue of such company's control of an insured bank as described in paragraph (1), except—

"(i) for purposes of section 3 of the Financial Services Holding Company Act, specifically including, but not limited to, the antitrust requirements under subsection (c)(1) and (2), as well as the further requirement under subsection (c) that the Federal Reserve Board take into consideration the financial and managerial resources and future prospects of the company described in paragraph (1) and the failed or failing bank before approving the acquisition;

"(ii) for purposes of sections 5 and 7 of the Financial Services Holding Company Act; and

"(iii) for purposes of sections 8 and 38 of the Federal Deposit Insurance Act, section 106 of the Bank Holding Company Act Amendments of 1970, and section 22(h) of the Federal Reserve Act.

"(B) NOTICE TO ENGAGE IN PERMISSIBLE NONBANKING ACTIVITIES.—Any company described in paragraph (1) may continue to engage directly or indirectly in nonbanking activities after such acquisition. Such company shall file notice with the Board 30 days after commencement of any new nonbanking activities.

"(5) LEAST COST RESOLUTION DETERMINATION BY THE FDIC.—No company may acquire direct or indirect ownership or control of all of the assets of any insured bank pursuant to paragraph (1), unless the FDIC determines, in its sole discretion, that such acquisition of ownership or control satisfies the FDIC's obligations to an institution's insured depositors at the least possible cost to the deposit insurance fund.".

(b) TECHNICAL AMENDMENT.—Section 4(f)(2)(A)(i) of the Financial Services Holding Company Act, as amended (12 U.S.C. 1843(f)(2)(A)(i)) is amended to read as follows:

"(i) acquired control of an additional bank or an insured institution (other than an insured institution described in paragraph (10) or (12) of this subsection, or a bank pursuant to section 13(1) of the Federal Deposit Insurance Act) after March 5, 1987; or".

The CHAIRMAN. Under the rule, the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes, and a Member opposed will be recognized for 20 minutes.

Mr. RINALDO. Mr. Chairman, I yield 7 minutes to the gentleman from Massachusetts [Mr. FRANK], and I ask unanimous consent that he be permitted to control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. RINALDO. Mr. Chairman, one of the critical issues that must be resolved in this debate is who will pay for failed banks.

Will it be our constituents, the taxpayers, or will Congress allow private corporations to pick up part of the cost?

In an era of budget restrictions, it would be irresponsible for this House not to utilize every possible alternative to save our constituents' tax dollars.

It no longer makes any sense to separate banking and commerce. As a matter of fact, banking and commerce are not separate.

As a result of the nonbank bank loophole, corporations like Archer-Daniels-Midland, Sears, Chrysler, General Electric, J.C. Penney, and others already own banks.

Furthermore, over the last few years, over 90 failed savings and loans have been sold to commercial corporations. The buyers include such names as Dana Corp. Weyerhaeuser, and Ford.

This is not theory. This is the reality of today's financial system.

There will be no sweetheart loans under my amendment. It totally prohibits a purchased bank from lending to its corporate parent or the parent's other affiliates. This would include issuing or endorsing a guarantee, acceptance, or letter of credit, or purchasing any securities or other financial assets of the parent or its subsidiaries.

The bank would also be forbidden to tie an extension of credit to the purchase of a product or service from the parent.

The law will prohibit conflicts of interest, concentrations of economic power, or other types of self-dealing.

Our financial services industry is in desperate need of capital, management expertise and imagination. Merging two brain-dead banks at the taxpayers' expense merely buys time.

Commercial corporations can supply the new ideas and better management that banks need. Even more important, they can supply capital.

Banks will need literally tens of billions of dollars before this crisis is over. I do not want to sit here next year and create another RTC because we closed off our best source of new capital.

Chairman Richard Breeden of the Securities and Exchange Commission, in a letter dated September 25, states that: "The benefits of permitting commercial firms to invest in banks outweigh any potential disadvantages."

He goes on to say that: "* * * banks would have access to * * * U.S. corporate capital and * * * U.S. corporations would be afforded the same opportunities to invest in banks already afforded to many foreign organizations."

In addition, former FDIC Chairman L. William Seidman endorses this idea. In a letter dated September 24, Chairman Seidman said that:

The Federal Deposit Insurance Corporation strongly supports provisions to permit commercial firms to acquire failing or failed financial institutions.

* * * new sources of capital will reduce the cost to the Bank Insurance Fund * * * Without this expansion of authority, the FDIC may ultimately find itself with a decreasing number of acquirers willing and able to purchase failed institutions. * * *

My amendment would require the buyer to raise the bank's capital to the highest classification at the time of purchase. The purchaser will not be offered any direct assistance from the FDIC. It also cannot cherry pick the assets. In other words, the purchaser must take the entire bank and its loan portfolio, good loans and bad loans.

The alternative to this amendment is to use tax dollars to close banks that could have been sold to commercial corporations. The FDIC expects several hundred bank failures over the next few years.

If the 96 savings and loans that were sold to commercial corporations had been closed instead, it would have cost the taxpayers over $16 billion.

Of course, capital could come from foreign investors. As of 1990, foreign-owned banks controlled almost 23 percent of our banking market.

Foreign investors have had a field day buying up American banks, while an obsolete law made American corporations sit on the sidelines.

Are we ready to allow foreign interests to increase their influence over the availability of credit to American consumers and businesses?

The question that we must face in this debate is who pays for bank failures. Is it going to be your constituents and neighbors? Or are we going to let corporations buy some of these banks.

Is this House ready to tell the taxpayers, our constituents, that their taxes must go up because we won't let Turner Broadcasting, for example, invest some of its profits in a bank?

Are you ready to tell parents that the money they wanted to use for education is going to the FDIC instead?

Are you ready to cut Social Security COLA's to bail out a bank that Sears would have bought?

The responsible answer is "no." The responsible answer is to amend this bill to allow dead and dying banks to be sold to commercial firms.

The responsible answer is to do everything possible to prevent this entire burden from ending up on the backs of the taxpayers of this country.

And remember, your constituents—the taxpayers—will know how you voted on this one.

□ 1700

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is the gentleman from Massachusetts [Mr. MARKEY] opposed to the amendment?

Mr. MARKEY. I am opposed to the amendment, Mr. Chairman.

The CHAIRMAN. The gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes.

Mr. MARKEY. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, let me begin by saying to my good friend, the gentleman from New Jersey [Mr. RINALDO], that for 5 years he and I have worked side by side in the Subcommittee on Telecommunications and Finance, and we have up to now been able to work out every issue that we have brought out here to the floor. We have worked together, trying to find a middle ground on every issue so that we can present in this changing global telecommunications and finance marketplace a common American perspective as to how we should deal with that whole range of issues.

On this day the Members have been presented with the first set of differences which we have not been able to reconcile, and it is because there are in fact two distinctly and unfortunately irreconcilable ways of looking at these issues.

This amendment offered by my friend, the gentleman from New Jersey [Mr. RINALDO] is not about saving taxpayers' dollars. In fact, it is nothing more than a backdoor attempt by the administration to allow commercial companies to buy banks. Paul Volcker, Henry Kaufman, and a slue of other experts testified to us that few commercial companies would have any interest in buying failed or fatally ill banks without a substantial dose of Federal assistance.

□ 1710

But assuming commercial companies would be interested, the GAO has warned us that commercial firms would probably be interested for the wrong reasons. Because, "They have an inadequate understanding of the risks involved," a condition which the GAO warns could lead to even greater bailout problems in the future.

The amendment would open the floodgates to commerce entering into banking. More than 1,000 banks with assets of $414 billion are currently on the FDIC problem list. Under this amendment, every one of those banks could be judged by regulators as being in some danger of eventual default, and thus sold to commercial companies. Chrysler, Exxon, you name it, that would be the new banking industry in our country.

Some have argued that because of decisions made previously by regulators, and in some cases Congress, the camel's nose is already under the tent. Already we have commercial companies that are engaging in some form of banking.

Well, let me say to Members if this amendment passes, more than just the camel's nose will be present in the tent. This amendment invites the camel to come in and to make himself at home. We will have a full-blown mixture of commerce and banking before the next 5 years is done.

Mr. Chairman, I reiterate that this is not about saving taxpayers money. This amendment is about getting commerce into banking. It is the foot in the door that will eventually, inevitably, result in a full mixture of these two parts, these two distinct parts of our American economy.

Mr. Chairman, I say to Members that this amendment must be rejected if we are to be consistent with the vote cast within the last half hour, because otherwise there will be no safeguards.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

The Chairman, Oliver Wendell Holmes said the life of the law has not been logic, it has been experience. I now know what law he has been talking about—this one. I think we are in a somewhat inconsistent pattern here, and the opposition of some of my friends to this amendment seems to me to carry it out.

No, I do not think it is inconsistent with support for the last amendment. In fact, as I understand the last provision, the defeat of the amendment of the gentleman from Georgia [Mr. BARNARD], it left intact a set of very strict rules and regulations.

Understand that anybody who buys a bank under this or any other amendment in this bill takes that bank subject to all the rules, regulations, and restrictions that are in the bill. The fact that a particular corporation would buy in a failed bank does not exempt them from all these rules and regulations.

Now, I thought they kind of overregulated a little bit in this last one. But if you think that was efficacious, where is the fear?

People say well, this will be an entering wedge, a camel's nose, all those wonderful anatomical metaphors that come forward. But I had thought that the provisions worked out by the two chairmen were seen as protecting us.

Understand, if you buy a failed bank under this amendment, you are not exempt from anything except the fact that you can buy a bank, having been a commercial corporation, but you are covered by all these rules and regulations. So if Members think these rules and regulations are going to work, I do not understand why they are concerned.

The question is, Why do we want to let the failed banks be sold to these people? The main reason, as far as I am concerned, is we own them, we are stuck with them, and we have to sell them. I would rather sell them to a wide range of bidders, understanding that the bidders are subject to all of the rules and restrictions that everyone else is.

Then some people say no, that would be a mistake because you should not let these people into banking. In other words, the bankers are so smart and have done such a good job and so understand the risks, that we should not let anybody into their turf.

It seems to me some of my friends have the view that the bankers have been unwise, have made risky decisions, and need to be further regulated, and also need to be protected from letting anybody else into their business.

Mr. Chairman, none of my best friends are bankers, but I have a couple of good friends who have been in the business, and it does not seem to me that the bankers are so infallible and so perfect in their approach that no one ought to be allowed to encroach on their turf.

Mr. Chairman, I guess I was absent the day it became the liberal position to protect one group of businesspeople against another group of businesspeople, that the way to protect the consumer was to make sure nobody interfered with Salomon Brothers' monopoly in this area. And now no one could come out and bid on a bank. So when the Bank of New England failed, we should only have bankers bidding on the place, which means a lower price.

It also means under the terms we have the bank comes in and says, "We will do you a favor. We will take this bank off your hands, but we will not lend anybody any money."

They set up some organization in New England called the Recoll Corp. It is death row for borrowers. You put money in it, and it will not come out.

My friend from Massachusetts said people will not want to buy these. That is probably the case. I do not know why anybody is going to be rushing to buy a failed bank. But if there are people, and this is all we are saying, I will not want to make a prediction we are going to have a large number coming in, but if there are corporations that are prepared to bid higher than anybody else for a bank, take all of the assets and all of the liabilities, and pay us more than anybody else, are we, the United States of America, in such great financial shape that we can say no to them? Take your money elsewhere?

Again, this is not a proposal to loosen by any means the terms under which banking is carried out. I was one of the ones who thought this ought to come at this point in the bill after the motion to strike, because it is now clear that anybody who buys a bank under this amendment takes it subject to all of the rules and regulations that have been put in here.

Given that, and given the desirability of minimizing the hit to the Federal Treasury that comes in here, I hope the amendment is adopted.

Mr. Chairman, I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Chairman, I would like to speak in opposition to the amendment. First let me say that no Member of this body is more decent and fair than the gentleman from New Jersey [Mr. RINALDO]. It is one of the reasons it troubles a lot of Members to oppose the gentleman's amendment. But I just have to tell Members that this amendment that we are voting on is not law in virtually any other country in the world.

Mr. Chairman, we live in global financial markets. There are virtually no other countries where this is law. The reason that that is the case is that this amendment is an invitation to self-dealing, conflicts of interest, and anticompetitive tie-ins.

I would like to give Members just one example, because obviously these are complicated issues. Say you had the biggest company in town taking over a failed bank, the principal lender in the town. The company that took it over, in our example, gets into financial trouble. It could not get credit on the merits. But suddenly they get into a situation where they can get help from their own piggybank when they need a favor.

The Rinaldo amendment, to its credit, does try to establish some checks and safeguards. But let me wrap up by saying that Paul Volcker made it very clear that firewalls cannot provide protection in these kinds of situations. Paul Volcker went on to add that this amendment would create regulatory nightmares.

Mr. Chairman, I urge Members to turn down this amendment, an amendment that, insofar as I can tell, would create a situation virtually unprecedented in the Western industrialized world.

Mr. RINALDO. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. LENT], the ranking minority member of the full Committee on Energy and Commerce.

Mr. LENT. Mr. Chairman, the gentleman from Massachusetts [Mr. MARKEY], whom I tried to get the attention of a little while ago, complains that this amendment would open the floodgates to corporations taking over some of our failed or failing banks.

□ 1720

He is worried about America's well-capitalized banks taking over these ailing banks. He is worried about the camel's nose getting even bigger. Those of us who are sponsoring this amendment hope this happens. I frankly am shocked that the gentleman from Massachusetts, being a man of the people, would oppose this amendment. This amendment merely decides the question of who pays the bill for these failing banks. Should banks that have failed or are about to fail be bailed out by these American business people, corporations? Or should they be bailed out by the American taxpayer? That is the question. That is the only question that must be decided on this amendment.

I am proud to sponsor this bipartisan amendment along with my colleagues, Congressmen RINALDO, FRANK, WYLIE, and BARNARD.

To me, the answer to that question is simple. We should never ask the American taxpayer, who is already struggling just to make ends meet, to bear any unnecessary burden, especially one of this magnitude.

All too often, Congress fails to allow markets to solve the problems facing our Nation's economy, substituting in its place expensive Government handouts and bailouts.

This is done in the name of consumer protection. But are we really protecting consumers when we require them to bail out a bank with their tax dollars when a commercial company stands ready to do so without Federal assistance?

Mr. Chairman, this institution has come under great criticism of late, and our constituents are wondering if we are truly protecting their interests. This amendment will prove just were we stand. A vote for the amendment is a vote for the American taxpayer. A vote against the amendment means we're just doing business as usual.

I urge my colleagues to listen to your constituents. Listen to your common sense. Support this amendment and give the American taxpayer a much-needed break.

Mr. WYDEN. Mr. Chairman, I yield 3 minutes to the gentleman from Kansas [Mr. SLATTERY] to speak in opposition.

Mr. SLATTERY. Mr. Chairman, this amendment is clearly a Trojan horse for commercial ownership of banks. I think we are kidding ourselves if we view it in any other way. So for those Members that want commercial ownership of banks, vote for this amendment. For those that have opposed that concept, I urge in the strongest possible terms a vote against this amendment.

Let me share with my colleagues some comments that have been made by some very knowledgeable people about this whole issue of commerce owning banks. Let me share some of their ideas.

Comptroller General Bowsher: "I think you're setting yourself up for mega-bailouts down the road." That is the Comptroller General.

"The potential benefits strike me as remote at best and illusory at worst." That is Gerald Corrigan, President of the Federal Reserve Bank of New York.

Former chairman of the Fed, Paul Volcker: "Where the line should continue to be drawn is between banking and commerce. Fuzzy as that distinction may be at the margin, the overriding public policy interest remains strong."

"Merging banking and commerce ultimately puts in jeopardy the fundamental economic democracy of this country and undermines the crucial need for independent deposit institutions exercising objective credit judgments." Economist Henry Kaufman.

Former CEA head Herbert Stein said, "There is little reason to think that nonfinancial businesses will be more willing to put capital in banks than the ordinary investor would, unless the nonfinancial business sees an opportunity to gain from the connection something other than the return on equity. This opportunity is likely to mean some form of self-dealing that is illegitimate."

Now let us look at what Ralph Nader says, for those that might be influenced by his view. I quote, "Letting commercial firms buy banks creates an irresistible temptation for conflicts of interest and self-dealing."

Mr. Chairman, I think this is a very clear issue. Again, if we want commercial ownership of banks, vote for it. If we are opposed to that, then we should vote against this amendment. I do not think there is any question that if we allow commercial entities to acquire banks, we are going to run into some under-the-table type subsidies, just like we did with the savings and loan situation.

Mr. RINALDO. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. WYLIE], the distinguished ranking minority member of the Committee on Banking, Finance and Urban Affairs.

Mr. WYLIE. Mr. Chairman, I thank the gentleman for yielding time to me.

I rise in strong support of the Rinaldo-Frank amendment.

We have heard a lot about camels and horses. I guess the circus is in town. This is the way I would suggest that the opponents of this amendment are talking. This would permit, to get serious about it for a minute then, this would permit commercial firms to buy failed or failing banks. Importantly, no government assistance could be used in these transactions, and the commercial firms which buy the banks would have to buy the banks, warts and all. They would have to take all of their assets.

Make no mistake, this is a save-the-taxpayers'-money amendment.

Consider these important points to this amendment. It would permit $719 billion in new capital from Fortune 500 companies to be available to shore up failed or failing banks. It would boost opportunities to let American capital be used to rescue failing banks, instead of foreign capital.

I say this because recently Citicorp, the United States' largest bank, had to go overseas to raise capital. They had to turn to a Saudi prince to do it, and he is now the largest shareholder in Citicorp.

It will put the United States on a more even footing in international banking markets. We have been told that no other country in the world allows this. Here is a chart showing all of the countries that allow commercial firms to own some banking interests: Canada, France, Germany, Hong Kong, Italy, Japan, the Netherlands, Switzerland, and the United Kingdom.

We are just getting in step with the rest of the world as far as banking and commerce are concerned.

Finally, it will reduce costs to the taxpayers by expanding the opportunity to buy banks. I might add that we should not fear banking and commerce. In fact, it already exists, although the gentleman from Michigan [Mr. DINGELL] will tell Members that it does not.

I received an interesting piece of mail in the mail today. It is from Ford Motor Co., offering me a home equity loan. Because of technology changes, that kind of thing happens all the time. This has in part led to the erosion of the banking franchise.

Ford Motor Co. made 89 percent of its profits last year from financial services, not from selling cars.

I would strongly urge Members to support this amendment. If they want to save the taxpayers money, vote yes.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I just had ear surgery on Tuesday, so I cannot hear what everybody is saying very well. And it is tough enough to hear what the gentleman from Massachusetts [Mr. FRANK] says anyway with not only having one-half of your hearing.

But quite frankly, what I did hear from him I thought made a lot of sense. Let me tell my colleagues why.

We are talking about failed banks, banks that have gone under, banks that are worthless, banks that the taxpayers are going to pick up billions of dollars of costs for.

What this amendment would say is that the FDIC could sell those failed banks to commercial interests. Now, the FDIC would no doubt probably give preference to banks buying them because the experience factor would give the FDIC that kind of authority. But without this amendment, the taxpayers of this country will risk incurring billions of dollars of additional losses.

What we are adding is a pool of people of Americans, for the most part, who might want to pick up those assets and who might want to operate a bank under the normal banking rules that this country operates under the rules of the Dingell amendment that was previously passed. Why would we want to foreclose that?

By not adopting this Rinaldo amendment what we are saying to our taxpayers is we are going to intentionally cost you billions of dollars more money. It just does not seem to make any sense to me at all.

□ 1730

I guess my point is that this bill provides I believe $30 billion in taxpayer assistance. The bill provides that the FDIC pick up these failed banks and try to sell them under normal bank operating rules. All the Rinaldo amendment says is that a commercial interest, a nonbanking interest, if it bids for those assets at a competitive price, might just get that contract and might just save the taxpayers billions of dollars.

That makes a lot of sense. I will vote for the amendment.

Mr. WYDEN. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. MCMILLEN].

Mr. MCMILLEN of Maryland. Mr. Chairman, I rise in opposition to the Rinaldo amendment. Why do commercial enterprises want to buy a failed bank when no one else wants to? Because that is where the money is; the taxpayers' money, that is. As long as you do not reform the deposit insurance system to put market discipline in place, then you risk this public subsidy spilling over to commercial parents, and spilling over into securities and insurance affiliates.

If the Members think the S&L bailout was big, try extending the deposit insurance umbrella throughout the whole American economy to anyone who is connected with a bank.

I do feel banks should be allowed to affiliate with other commercial enterprises, but only if they pay the full price for deposit insurance and do not hold the taxpayer hostage. This amendment is a Pandora's box. I urge the rejection of this amendment.

Mr. WYDEN. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, as this proposal originally stood, the proposal was to allow commercial entities to buy up institutions in banking, the good, the bad, the ugly. As it now stands, the proposal is to allow commercial entities to buy only the bad and the ugly. We should ask ourselves, why would a commercial entity want to buy a bad, ugly bank? What is the purpose? What do they want to gain by buying a bad, ugly bank, one that is failing so badly that nobody else in the banking industry wants to pick it up, nobody else wants to invest in it?

The issue is not whether or not we allow someone else to invest in failing institutions. The question is whether or not we allow commercial entities to own those failing institutions. We ought to ask ourselves what would happen if they did. Is there an increased opportunity for, indeed, some "hanky-panky"? I would suggest yes, I would think so.

Is there a possibility, for example, that one commercial entity might buy a bank that holds the paper on its competitors? What do you do then? What happens, for example, if Chrysler should end up buying a big, bad, ugly, failing banking institution which would drag Chrysler down again? Would we have to bail out the bank, Chrysler, and maybe New York at the same time? I mean, where is this taking us?

The problems this amendment poses for us are beyond our vision, away on the horizon, but you can smell something wrong when you just consider that commercial entities under this amendment would only be buying the bad, the ugly banks that nobody else wants and nobody else wants to invest in. You ought to ask yourselves why would that happen. If you cannot answer it without wondering, if you cannot answer it without really considering that something bad is going to happen, you ought to ask yourself why should we allow it to happen.

Mr. WYDEN. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Chairman, when I was very young, which may or may not have been a long time ago, my parents once said to me, neither borrower nor lender be. Under the Rinaldo amendment we would be letting financial services holding companies be both borrower and lender, and think of the wonderful opportunity that would be. They talk about this amendment as creating synergies. What a wonderful synergy to have the same board of directors figuring out how much money they need to borrow and having their own private pot to go put their hand in and take it. That is what this amendment is all about. What we will have is a unique opportunity for those who bring money in and put money out, but it is the same person that makes that decision. And when Members try to answer the question that my colleague from Louisiana suggested, "Why should this happen," it is so clearly evident to those of us who follow this issue that they simply want the power to bring in funds and to self-deal with those funds in their own economic interest.

How will the companies that own banks value their assets? To suit their bottom line, not necessarily their investors'. Why will they create lines of credit? For their parent companies or the powerful boards of directors that control them. What will they do with loan applications from competing firms or individuals not so lucky to sit on their boards? It doesn't take a genius to figure it out. It may be good business to own a bank, but it is bad business for a commercial enterprise to own its own captive bank. The potential for conflicts of interest and self-dealing here is astounding and flies in the face of all we know about free markets and true competition. This amendment is irresponsible and dangerous and I urge you to oppose the amendment.

Mr. WYDEN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. GONZALEZ], the distinguished chairman of the Committee on Banking, Finance and Urban Affairs.

Mr. GONZALEZ. Mr. Chairman, I rise in very strong opposition to this amendment, not only because in principle it is wrong, but it has been so cannily crafted. This must have been written by some lawyer over there from American Express or from one of those nonbank banking entities, because at the end of the amendment, if the gentlemen have a copy of it, and I do not believe many of them do, it says:

(b) TECHNICAL AMENDMENT.—Section 4(f)(2)(A)(i) of the Financial Services Holding Company Act, as amended (12 U.S.C. 1843(f)(2)(A)(i)) is amended to read as follows:

"(i) acquires control of an additional bank or an insured institution (other than an insured institution described in paragraph (10) or (12) of this subsection,".

Members know what that means. It means that these so-called commercial ventures that these gentlemen want to bring in to acquire banks will be exempted from all the regulatory controls of the Bank Holding Act of 1956, and will continue the exemption that such entities as American Express have had.

Mr. RINALDO. Mr. Chairman, will the gentleman yield? Does he want me to answer the question?

Mr. GONZALEZ. I do not have the time. I wish I did.

Mr. RINALDO. I thought the gentleman wanted me to answer the question, and I wanted to be accommodating.

Mr. GONZALEZ. No, I do not have a question. I have analyzed this amendment. I am telling the gentleman that this is a very mischievous amendment, that any Member who votes for it, sight unseen, is going to be making a serious mistake.

Now let me just read from the Bank Holding Co. Act of 1956.

Whenever a holding company controls both banks and nonbanking businesses, it is apparent that the holding company's nonbanking businesses may thereby occupy a preferred position over that of their competitors in obtaining bank credit. It is also apparent that in critical times the holding company which operates nonbanking businesses may be subject to strong temptation to cause the banks which it controls to make loans to its nonbanking affiliates even though such loans may not at that time be entirely justified in the light of current banking standards.

□1740

Mr. WYDEN. Mr. Chairman, I yield 1 minute to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, this is a profound amendment.

What is at stake in the internal combusting of commerce and banking is economic democracy, the question of whether the voice of small businesses and ordinary citizens will be heard in a world of financial conglomeration.

There is simply no issue which jeopardizes the principles of Jeffersonian and Jacksonian democracy more than allowing mammoth commercial enterprises to control banks. Such a conglomeration of economic power would have the effect of concentrating monetary and credit allocation decisions in the very largest multinational corporations, including those headquartered in Tokyo and Frankfurt.

If this radical departure from law and custom is adopted, the Federal safety net will be extended beyond the banking system, with deposit insurance potentially applied to broader reaches of the economy. The market economy will be even more contaminated with taxpayer guarantees. After the S&L debacle it would seem that a prudential Congress would want to limit and isolate the role of such guarantees, not exponentially expand them.

Mr. RINALDO. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. RITTER], a member of the committee.

Mr. RITTER. Mr. Chairman, my colleagues, the gentleman from Ohio [Mr. ECKART] and the chairman of the committee, the gentleman from Texas [Mr. GONZALEZ], have both come into this well and talked about the abusive potential for lending to affiliates.

Well, it says right here in the Rinaldo amendment under the category "Safeguards" that this cannot happen.

All right, this would be illegal, an illegal event under the Rinaldo amendment.

So, please, discount what the gentleman from Ohio and the chairman have just said. The fundamental question remains: Who pays? Who pays? Does the taxpayer pay in the FDIC bailout, or does the private sector pay with some commerce and banking for failed and failing banks? That is the fundamental question.

If my colleagues think that Americans are undertaxed and they want more taxpayer responsibility for bank bailouts, then vote against Rinaldo.

Mr. RINALDO. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, who is the foremost expert in our country on failed banks? Bill Seidman.

Let us see what Bill Seidman has to say in a nutshell. Here is what he had to say about this amendment:

The Federal Deposit Insurance Corporation strongly supports provisions to permit commercial firms to acquire failing or failed financial institutions. Expanding the range of potential acquirers and introducing new sources of capital will reduce the cost to the Bank Insurance Fund of resolving failed institutions.

That is why I am for this amendment, because I do not believe in taxpayer bailouts. I support the amendment because the failure of the Barnard amendment will see many more bank failures.

The House has turned its back on bank reform, reform that is desperately needed, and this amendment gives us another option instead of the taxpayer bailout.

The bill before us has a life-threatening illness, and removing title IV was the surgery that was needed to save this bill.

PARLIAMENTARY INQUIRY

Mr. WYDEN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. WYDEN. Mr. Chairman, the Rinaldo amendment was rejected in the Committee on Energy and Commerce. I believe I have the right to close.

The CHAIRMAN. The gentleman is correct.

Mr. RINALDO. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, we have heard a lot of technicalities that are designed to obscure the main point—my amendment will save tax dollars.

The point is that some commercial enterprises may believe that they can run a banking business more successfully than the management that ran the previous company into the ground.

Finally, if my amendment is so strict that no corporations choose to buy a bank, then there is absolutely no reason not to vote for it.

The facts are clear. My amendment will save tax dollars. This is not an ill-considered experiment. Already 96 failed S&L's have been sold to corporations. Not one has failed.

If you vote for my amendment, you are voting for lower deficits. You are voting for more money for this country's disadvantaged. You are voting to save tax dollars. You are voting to save the taxpayers—your constituents—from another bank bailout.

It is as simple as that.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. I am happy to yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, I compliment the gentleman. I think that we should pass this. It is along the line of the two amendments in the past that I have introduced, one of which has saved millions of dollars for taxpayers.

I think it is the right thing to do. We should have done it a long time ago.

Mr. RINALDO. I thank the gentlewoman.

Mr. DINGELL. Mr. Chairman, this is not the first time this amendment has been seen. It was voted down unanimously by the committee, or not unanimously, but overwhelmingly by the Committee on Energy and Commerce.

Let me just advise you that this is an interesting amendment, and my dear friend from New Jersey is a loyal and a decent follower of the administration. Unfortunately, this amendment is not what he has been told, in fact, it is.

In fact, it would permit a large number of banks to be bought, not just banks which are failing, and not just banks which are failed, but banks which are in level 5 and which are in some capital trouble but which are not in danger of failing.

There are some things that ought to be known. First of all, this amendment would set up two categories of banks. The securities law firewalls on which the House just voted very heavily would not apply to these banks or holding companies under the amendment. This amendment would gut the protection which we have just put in place.

Beyond that, it would set up two categories of banks, one which would be free to engage in certain rascality, and one which would not.

I cannot yield to my dear friend in spite of my affection and respect for him.

The amendment would lead us further down the road toward the formation of a small number of power centers dominating the entire American economy. There is no guarantee that the amendment will bring additional capital to banking.

GAO warns that banking-commerce combinations will be a mecca for bailouts. Current finance-commerce combinations are crippling our current commercial and industrial firms.

The Wall Street Journal 2 weeks ago reported huge losses at nonbanks and finance companies that have dragged down otherwise healthy corporations, and their earnings, and their stock prices.

One corporate parent had to eat almost $2 billion in its corporate finance arm due to bad losses at the real estate and savings and loan operation which it ran.

If you do not believe me that this is unwise, listen to Gerald Corrigan, who says, "I remain opposed to the combination of commercial and banking organizations." Listen to Paul Volcker, who says that the trend toward the combining of banking and business could lead to the combination of a relatively small number of power centers dominating the American economy. This must not be permitted to happen. It would be bad for banking, bad for business, bad for borrowers, and bad for consumers.

This is a bad amendment. It masquerades as being one thing. In point of fact it is something quite different.

Now, I love the gentleman from New Jersey. He is a good friend of the administration, but they are not good friends to him, because they mislead him as to the content of his amendment and what it does.

I would urge the House to reject this unwise amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from New Jersey [Mr. RINALDO].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. RINALDO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 137, noes 272, answered "present" 1, not voting 23, as follows:

[Roll No. 363]

AYES—137

Allard	Gallegly	Lipinski
Andrews (TX)	Gallo	Livingston
Archer	Gekas	Lowery (CA)
Armey	Gilman	Lowey (NY)
Atkins	Gingrich	Machtley
Baker	Glickman	Martin
Ballenger	Goodling	McCandless
Barnard	Goss	McCollum
Barton	Gradison	McCrery
Bateman	Green	McEwen
Bliley	Hancock	McGrath
Boehner	Hansen	McMillan (NC)
Broomfield	Hastert	Miller (OH)
Callahan	Hefley	Miller (WA)
Campbell (CO)	Hoagland	Molinari
Carper	Hobson	Moorhead
Chandler	Holloway	Moran
Chapman	Houghton	Morrison
Clinger	Hughes	Myers
Coble	Hyde	Neal (NC)
Coughlin	Inhofe	Oakar
Cox (CA)	Ireland	Orton
Crane	Johnson (SD)	Owens (UT)
Cunningham	Johnson (TX)	Oxley
DeLay	Johnston	Packard
Dickinson	Kasich	Patterson
Dooley	Klug	Paxon
Doolittle	Kolbe	Ravenel
Dornan (CA)	Kyl	Rhodes
Dreier	LaFalce	Ridge
Emerson	Lagomarsino	Riggs
Erdreich	LaRocco	Rinaldo
Fields	Lent	Ritter
Frank (MA)	Lewis (CA)	Roe
Franks (CT)	Lewis (FL)	Rohrabacher

Roth	Snowe	Vander Jagt
Santorum	Solomon	Vucanovich
Schiff	Spence	Walsh
Schroeder	Stearns	Weldon
Schumer	Stump	Wilson
Sensenbrenner	Tallon	Wylie
Shaw	Taylor (NC)	Yatron
Skelton	Thomas (CA)	Young (AK)
Smith (NJ)	Thomas (WY)	Zeliff
Smith (OR)	Upton	Zimmer
Smith (TX)	Valentine	

NOES—272

Abercrombie	Frost	Morella
Ackerman	Gaydos	Mrazek
Alexander	Gejdenson	Murphy
Anderson	Gephardt	Murtha
Andrews (ME)	Geren	Nagle
Andrews (NJ)	Gibbons	Natcher
Annunzio	Gilchrest	Neal (MA)
Anthony	Gillmor	Nichols
Applegate	Gonzalez	Nowak
Aspin	Gordon	Nussle
AuCoin	Grandy	Oberstar
Bacchus	Guarini	Obey
Barrett	Gunderson	Olin
Beilenson	Hall (OH)	Olver
Bennett	Hall (TX)	Ortiz
Bentley	Hamilton	Owens (NY)
Bereuter	Hammerschmidt	Pallone
Berman	Harris	Panetta
Bevill	Hatcher	Parker
Bilbray	Hayes (IL)	Pastor
Boehlert	Hayes (LA)	Payne (NJ)
Bonior	Hefner	Payne (VA)
Borski	Henry	Pease
Boucher	Herger	Pelosi
Brewster	Hochbrueckner	Penny
Brooks	Horn	Perkins
Browder	Horton	Peterson (FL)
Bruce	Hoyer	Peterson (MN)
Bryant	Hubbard	Petri
Burton	Huckaby	Pickett
Bustamante	Hunter	Pickle
Byron	Hutto	Porter
Camp	Jacobs	Poshard
Cardin	James	Price
Carr	Jefferson	Pursell
Clay	Jenkins	Quillen
Clement	Johnson (CT)	Rahall
Coleman (MO)	Jones (GA)	Ramstad
Coleman (TX)	Jones (NC)	Rangel
Collins (IL)	Jontz	Ray
Collins (MI)	Kanjorski	Reed
Combest	Kennedy	Regula
Condit	Kennelly	Richardson
Costello	Kildee	Roberts
Cox (IL)	Kleczka	Roemer
Coyne	Kolter	Rogers
Cramer	Kopetski	Ros-Lehtinen
Darden	Kostmayer	Rose
Davis	Lancaster	Rostenkowski
de la Garza	Lantos	Roukema
DeFazio	Laughlin	Roybal
DeLauro	Leach	Russo
Dellums	Lehman (CA)	Sabo
Derrick	Lehman (FL)	Sanders
Dicks	Levin (MI)	Sangmeister
Dingell	Levine (CA)	Sarpalius
Dixon	Lewis (GA)	Sawyer
Donnelly	Lightfoot	Saxton
Dorgan (ND)	Long	Schaefer
Downey	Luken	Scheuer
Duncan	Manton	Schulze
Durbin	Markey	Serrano
Dwyer	Martinez	Shays
Early	Matsui	Shuster
Eckart	Mavroules	Sikorski
Edwards (CA)	Mazzoli	Sisisky
Edwards (OK)	McCloskey	Skaggs
Edwards (TX)	McCurdy	Skeen
Engel	McDade	Slattery
English	McDermott	Slaughter (NY)
Espy	McHugh	Smith (FL)
Evans	McMillen (MD)	Smith (IA)
Ewing	McNulty	Solarz
Fascell	Meyers	Spratt
Fawell	Mfume	Staggers
Fazio	Miller (CA)	Stallings
Feighan	Mineta	Stark
Fish	Mink	Stenholm
Flake	Moakley	Stokes
Foglietta	Mollohan	Studds
Ford (MI)	Montgomery	Sundquist
Ford (TN)	Moody	Swett

Swift	Traficant	Weber
Synar	Traxler	Wheat
Tauzin	Unsoeld	Williams
Taylor (MS)	Vento	Wise
Thomas (GA)	Visclosky	Wolf
Thornton	Volkmer	Wolpe
Torres	Washington	Wyden
Torricelli	Waters	Yates
Towns	Waxman	

ANSWERED "PRESENT"—1

Cooper

NOT VOTING—23

Bilirakis	Hertel	Sharp
Boxer	Hopkins	Slaughter (VA)
Brown	Kaptur	Tanner
Bunning	Lloyd	Walker
Campbell (CA)	Marlenee	Weiss
Conyers	Michel	Whitten
Dannemeyer	Rowland	Young (FL)
Dymally	Savage	

□ 1807

Mr. FORD of Michigan and Mrs. KENNELLY changed their vote from "aye" to "no."

Mrs. LOWEY of New York and Mr. DOOLEY changed their vote from "no" to "aye."

Mr. COOPER changed his vote from "no" to "present."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. This concludes consideration of amendments for today.

Pursuant to the order of the House of today, it is now in order to begin the period of general debate for the Committee on Agriculture.

Pursuant to House Resolution 264, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 22½ minutes and the gentleman from Missouri [Mr. COLEMAN] will be recognized for 22½ minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, earlier today, I voted for the rule on this bill. I did so reluctantly. I have great admiration for my friend and colleague, the gentleman from Texas [Mr. GONZALEZ], the distinguished chairman of the Committee on Banking, Finance and Urban Affairs. He has worked long and hard to bring this bill to the House. However, I cannot support the bill.

H.R. 6 has far-reaching implications for our Nation's banking system and our Nation's economic well-being. Nowhere will the impact of this legislation be more deeply and, most likely, more painfully felt than in rural America.

Despite all the rhetoric on how this bill is better for consumers, this bill continues to take us down the road of fewer and fewer banks. This bill severely disadvantages our Nation's rural banks and ignores the banking needs of rural America.

Mr. Chairman, I agree that the time has come for a reexamination and reform of our Nation's banking laws. The S&L crisis has highlighted the weaknesses and failure in our Nation's regulation of financial services.

H.R. 6 attempts to improve the health of our banking system, strengthen Federal oversight, and minimize over the long haul the taxpayers costs involved in restructuring our banking system

But in doing so, this bill ignores the needs of smaller, locally owned banks and the valuable services they provide to our rural communities and American agriculture.

Our rural communities and towns face two problems.

First, we have Federal regulators who frankly don't care about the problems faced by small- and mid-size banks. This bill ignores the fact that Federal banking regulators are effectively strangling the ability of small community banks to operate profitably.

Mr. Chairman, for a moment, let's listen to a small-town banker from Texas who is having to deal with this regulatory mentality. I received a letter from a small banker and this is what he wrote:

> Loss of community banks will greatly affect the opportunity provide banking services adequately throughout the State of Texas. Not even the large cities of Texas will be spared. You will find that more and more control and decisionmaking will be withdrawn from within the boundaries of the State of Texas as both the East and West coast banks control the financial destiny of the State of Texas.

We are told that all of this consolidation and mergers will improve the quality of banking services and lessen its costs.

Trouble is, that's not what is happening in Texas. Let me continue reading from the letter from my friend and how he now has to handle the refinancing of a mortgage loan in Harlingen, TX:

> We find that all of the documentation and papers concerning the loan have been removed from the state of Texas and now reside in North Carolina. As a result, what would normally have been a fairly inexpensive and easy transfer has become costly and difficult for our customer * * * now [we] must wait weeks before the release papers are returned before we can actually perfect our lien. In the past, these transactions were completed within a matter of hours, or a day or two at the most.

The Bush administration regulators keep telling us that "the market will take care of it." Putting small banks out of business is what they really mean.

Just listen to what the Bush administration's regulators have said about banking regulation in recent years:

"Deposit insurance should be abolished. Most banks would be better managed if owned by giant corporations such as IBM." That was said by Richard Breeden, head of the Securities and Exchange Commission.

"I think 130 banks is all America needs, and 12 giant banks could handle most of America's banking today." So said William Taylor, the Chairman of the FDIC.

"Bankers will have to merge, consolidate, or be failed in our new banking environment." These are the words of wisdom offered by Robert Clark, the Comptroller of the Currency.

That brings me to my second major concern about this bill—interstate branch banking.

Yesterday's Wall Street Journal quoted the former Chairman of the FDIC, William Seidman, as saying that 3,000 to 4,000 banks will be closed over the next 5 to 6 years.

Mr. Chairman, can you guess where many of these closures will occur? Most of those closures, I dare say, will be in rural areas—just as they have been in the past.

The bill does nothing to ensure that small, rural communities in States like Texas do not become colonies to the imperial banking powers.

We on the Agriculture Committee are sensitive to the plight of rural America.

H.R. 6, as reported by the House Banking Committee, was sequentially referred to the Committee on Agriculture for consideration of matters within our jurisdiction. That jurisdiction includes: The operation of the Nation's commodities exchanges; the extension of agricultural credit; rural economic development; and the agricultural economy in general.

During our deliberations, the Committee on Agriculture adopted a number of amendments to H.R. 6 that addressed our concerns in an attempt to mitigate the adverse implications of this bill on rural and agricultural lending activities.

The Agriculture Committee was able to reach agreement with Chairman GONZALEZ of the Banking Committee and Chairman DINGELL of the Energy and Commerce Committee on amendments to: Ensure that the bill's provision regarding the enforceability of netting contracts cannot be construed to override provisions of laws regulating commodities markets; ensure that the bill's financial privacy provisions do not hinder the Commodity Futures Trading Commission in the pursuit of its law enforcement agenda; and clarify that deposit insurance assessment credits will apply to loans insured or guaranteed by the Secretary of Agriculture.

These largely technical amendments were included in the Rules Committee print of the bill that is now before the House. I want to thank Chairman GONZALEZ and Chairman DINGELL for their cooperation and their willingness to accommodate these amendments.

Unfortunately, two other amendments approved by the Committee on Agriculture were not included in the Rules Committee print, nor were they made in order under the rule. These amendments attempted to mitigate the adverse effects of the bill on our rural communities and financial market participants.

These amendments would have: Required the monitoring of local lending activities of interstate branches operating in rural areas; and assured the maintenance of the status quo with respect to the pass-through of deposit insurance coverage to omnibus accounts containing the funds of futures market customers.

Unfortunately, the Committee on Agriculture's repeated attempts to work with Chairman GONZALEZ on a possible compromise to resolve these matters were unsuccessful.

As reported by the Committee on Banking, Finance and Urban Affairs, section 308 of H.R. 6 is designed to inhibit banks from using interstate branches as deposit production offices.

Section 308 establishes a standard for local lending by interstate branches and required a review by the appropriate bank regulatory agency of any branch which failed to meet that standard. If the regulator finds that the branch was not reasonably meeting the credit needs of the community, the regulator is required to close the branch.

The Agriculture Committee amendment to section 308 would have expanded the provision to provide for a specific standard to trigger the review for interstate branches opened in rural areas.

The amendment would have allowed for the monitoring of the impact of interstate branching on the availability of loan capital to rural borrowers by out-of-state banks. Without the amendment, these banks will be able to escape this review without showing that they are meeting the credit needs of rural areas.

Members of the Agriculture Committee believe this is a modest requirement for banks to be permitted to open interstate branches in rural areas. It would require no more than that a bank which is granted such a privilege reasonably meet the credit needs of the rural community in which the branch is located.

We believe that this standard would have complemented the Banking Committee's section 308. Our amendment would be a prudent check on the ability of out-of-state banks to use new interstate branching authorities to drain rural areas of the financial resources which are so important to the agricultural economy and to rural development.

Unfortunately, the failure of the Rules Committee to make the amendment in order have deprived the House of the opportunity to vote on this modest but important protection for rural communities and rural residents across the country.

Mr. Chairman, the amendments to H.R. 6 offered by the Committee on Agriculture may be considered relatively minor in the context of the bill's main purposes. However, we believe these amendments are necessary for ensuring that the interests of rural America are heard in this debate.

Mr. Chairman, I am disheartened by the inability of the House to consider these amendments by the Committee on Agriculture.

For these and several other more serious reasons, I must oppose passage of this bill. Between what the Federal regulators want to do and what this bill allows them and the big banks to do, we are writing the death warrant for our Nation's small banks.

Yes, banking law reform is needed.

But this bill falls short. This bill does not create a level playing field that allows the entire banking community a chance to operate and make a profit.

Instead, this bill continues to drain the economic life out of rural America. Our farmers cannot afford to stay in business because we keep cutting the budget for our farm programs. Our children are forced to move to the traffic-congested cities and suburbs to find jobs that rural America doesn't offer.

Now we are effectively closing down our small rural banks. With passage of this bill, we might as well turn off the lights in rural America.

Mr. Chairman, I want bank reform legislation. I want to see our banking industry strong and profitable. But I cannot support H.R. 6. This bill drives a stake into the economic future of rural America.

□ 1820

Mr. Chairman, there are many stories that I can tell the Members about how the regulators are running wild. They are closing banks. I can almost attest to the fact that sometimes it is because they do not like the color of the banker's eyes. They are writing up banks for reasons that one could not imagine. Even the Federal Reserve will not allow two small banks to merge because some customer or some director had a loan at that bank, and it just cost them thousands of dollars to hire a lawyer to have to go and explain what the situation is, and then they say, "Well, we were just mistaken," but they have cost the small bank several thousands of dollars.

The horror stories are there. I do not know about the big cities. I do not have access to that information. I am only telling the Members about the small communities throughout rural America, and I am explaining what the regulators are doing and what the rules and regulations are doing. The quotes I gave the Members from people who have been in control give us an ominous sign of what is to happen.

What happens if the banks of rural America go down? America goes down, because we can rebuild our cities should they be destroyed, but what comes from the land cannot be replaced. Members have heard me say that it all begins where we produce the food and the fiber in this country of ours. There could not be big banks in the big cities, there could not be manufactured items, and there could not be any other things that we produce unless we have the food down there in rural America.

I was asked during the consideration of the farm bill by one of my colleagues from one of the big cities, "Hey, how can I explain to someone in innercity Detroit that I voted for this bill so you can give money to farmers not to plant?"

I said, "Look, I haven't got time to explain that, but all I want you to do is tell the people in Detroit—no farmer, no pickup. That's what you tell the people in Detroit—no farmer, no pickup."

What do you tell the people in the innercity? "No farmer, no food." That is what we are talking about.

Farmers do not have their own resources to do the farming. There has to be some borrowed money, and the farm economy depends in great part on these rural banks in rural America.

With all due respect and with the love, admiration, and respect that I have for the Rules Committee, I say they should have given the Members of the House the opportunity to make the decision, and they should have allowed us these amendments. They say that it was a tough fight but it was within their jurisdiction. Truthfully, I do not know, it may or may not have been, but I think that the House merited at least the opportunity to take a look at these amendments. Otherwise we will be driving another nail in the coffin of rural America, and when rural America goes, everything else goes.

Mr. Chairman, that is the reason why I am not able to support H.R. 6.

Mr. Chairman, I am submitting herewith a more detailed description of the Committee on Agriculture's amendments to H.R. 6, as follows:

AMENDMENTS ADOPTED BY THE COMMITTEE ON AGRICULTURE

PAYMENT SYSTEM RISK REDUCTION

Subtitle A of title VI of H.R. 6, as reported by the Banking Committee, is designed to promote reductions in risks to participants in certain payment systems. It specifies the rules which are to be applied in determining obligations and entitlements under netting contracts in instances where parties to such contracts fail.

The Agriculture Committee has no obligation to the purposes of the provision. However, the committee found that in a number of instances it could have unintended effects that would impinge upon the enforcement of the Commodity Exchange Act—the statute which provides for the regulation of commodity futures trading.

Agriculture Committee Proposal

The amendment adopted by the Agriculture Committee modifies a number of provisions relating to the participation of clearing organizations and their members in netting arrangements. A key provision of the Agriculture Committee's amendment would modify the definition of "netting contract" and stipulate that for purposes of the subtitle's provisions, that term is not to be construed to include any contract that is invalid or precluded by Federal commodities laws. Many of the Committee on Agriculture's improvements to subtitle A of title VI are included in the Rules Committee print of H.R. 6.

CONFIDENTIALITY OF CUSTOMER INFORMATION

The Agriculture Committee is concerned that provisions in title IV of the bill designed to protect and expand the privacy rights of financial services customers would hinder the Commodity Futures Trading Commission in its ability to enforce the Commodity Exchange Act.

Agriculture Committee Proposal

The Committee approved amendments to the bill that would ensure that the CFTC would have proper access to financial records to the same degree as other financial regulatory agencies. Amendments to address the Committee's concerns are included in the Rules Committee print of H.R. 6.

DEPOSIT INSURANCE ASSESSMENT CREDITS FOR LOANS GUARANTEED BY USDA

The Agriculture Committee adopted an amendment designed to address what I believe to have been an oversight in the Banking Committee's version of H.R. 6.

Section 233 allows banks to take credit towards deposit insurance assessment liabilities for making loans under Federal programs designed to assist distressed communities.

The credit is to apply in cases of loans insured or guaranteed by the Secretary of Housing and Urban Development, the Secretary of the Department of Veterans Affairs, and the Administrator of the Small Business Administration. The credit is also to apply to loans insured and guaranteed by the Secretary of Agriculture but only insofar as they relate to housing.

Through the Farmers Home Administration, the Secretary of Agriculture insures and guarantees rural development loans in addition to loans and loan guarantees for housing.

Agriculture Committee Proposal

Because loans such as those made by the Farmers Home Administration are clearly related to the purposes of other lending covered by section 233 of the bill, the Committee on Agriculture adopted an amendment which would allow banks to take credits for such loans. This technical amendment is included in the Rules Committee print of the bill.

INTERSTATE BRANCHES IN RURAL AREAS

As reported by the Committee on Banking, Finance, and Urban Affairs, section 308 of H.R. 6 is designed to inhibit banks from using interstate branches as deposit production offices.

This provision establishes a standard for local lending by interstate branches and requires a review by the appropriate bank regulatory agency of any branch which fails to meet that standard. If the regulator finds that the branch is not reasonably meeting the credit needs of the community, the regulator is required to close the branch.

During our hearings on H.R. 6, the Agriculture Committee found that a great many rural Americans are concerned about the potential adverse impact some of the deregulation initiatives proposed in H.R. 6 could have on rural development and the availability of agricultural credit.

Agriculture Committee Proposal

In response to these concerns, the Agriculture Committee adopted an amendment to title III of the bill. This amendment would expand the provisions of section 308 to provide for a specific standard for interstate branches opened in rural areas. Unfortunately, the amendment was not made in order under the rule.

This amendment is designed to allow for the monitoring of the impact of interstate branching on the availability of loan capital to rural borrowers when out-of-State banks exercise the privilege to locate branch offices in rural areas.

Under the amendment, if an interstate branch located in a rural area is found to have a local loan, including loans for agricultural purposes and for rural development, to deposit ratio of less than 50 percent, the branch would be made subject to the review established under the bill as reported by the Banking Committee. If the regulatory agency finds that the branch is not meeting the credit needs of the community, the branch is to be closed.

Members of the Agriculture Committee believe this is a modest requirement under which banks could be permitted to open interstate branches in rural areas. It requires no more than that a bank which is granted such a privilege reasonably meet the credit needs of the rural community in which the branch is located.

This standard is an appropriate complement to the Banking Committee's amendment that will provide a prudent check on the ability of out-of-State banks to use new interstate branching authorities to drain rural areas of the financial resources which are so important to the agricultural economy and to rural development.

DEPOSIT INSURANCE COVERAGE OF FUTURES CUSTOMER FUNDS

The Agriculture Committee also approved an amendment to ensure the maintenance of the status quo with regard to the deposit insurance coverage of funds owned by futures market customers but deposited along with funds of other customers in omnibus accounts.

It is the Agriculture Committee's understanding that the deposit insurance reform provisions of H.R. 6, as reported by the Banking Committee, were not intended to effect the current treatment of such funds. But the Agriculture Committee is concerned that these provisions could be construed in a manner that would prove to be damaging and unnecessarily costly to the hundreds of thousands of farmers, pension fund managers, and other persons who use the futures markets daily.

The customer protection provisions of the Commodity Exchange Act are very strict. Under the Act, all customer funds deposited with a futures commission merchant must be held in "segregated accounts" to ensure that customer funds are kept safe and identifiable regardless of any changes in the financial conditions of the futures commission merchant.

While customer funds are segregated, efficiency in banking and accounting have led to the current situation under which such funds are deposited in omnibus bank accounts in insured institutions by the futures commission merchants who serve as brokers.

Since each customer's ownership interest in such an omnibus account is clearly traceable, the Federal Deposit Insurance Corporation has used its authority to provide insurance coverage for the benefit of each customer for whose benefit funds are deposited in such an account as if such customer's funds were held in a separate insured account.

While current law does not provide specific guidance to the FDIC regarding the provision of such "pass-through" coverage of deposit insurance, the bill as reported by the Banking Committee amends the Federal Deposit Insurance Act to specify that some types of accounts are specifically eligible for such coverage and some are not.

It is our concern that this treatment of the issue of pass-through coverage of deposit insurance could lead to uncertainty regarding congressional intent.

Agriculture Committee Proposal

While the Agriculture Committee believes that such treatment for futures customer funds would and should apply even without the inclusion of the committee's amendment, the inclusion of the amendment would help to eliminate any margin for error by specifying in the statute that current treatment of futures customer accounts should be extended.

The Agriculture amendment would provide that deposit insurance coverage would extend—as it does under existing practice—to each customer depositor of funds as if the customer's funds were the only funds in the account. This would include funds commingled with those of other customers in an omnibus account.

Coverage would only apply if the covered bank is able to produce clear documentation regarding the identity of, and amount of the deposit attributable to, each beneficial owner of funds maintained in the account.

Mr. Chairman, I do not have any other requests for time. I am informed that the possibility is that the minority does not have requests for time. I do not know if I can do so, but I will relinquish the balance of my time, and if permitted to do so, I will relinquish the time on behalf of the minority.

The CHAIRMAN. The gentleman from Texas [Mr. DE LA GARZA] reserves the balance of his time, and the Chair observes that the ranking minority member of the Committee on Agriculture is not here to claim his time, and, therefore, yields back his time.

Mr. DE LA GARZA. If that be the case, Mr. Chairman, then I will yield back the balance of my time.

The CHAIRMAN. All time has expired.

Without objection, the Committee rises.

There was no objection.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. CARPER] having assumed the chair, Mr. CARR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6) to reform the deposit insurance system to enforce the congressionally established limits on the amounts of deposit insurance, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. DANNEMEYER. Mr. Speaker, I was unavoidably absent from the House. Had I been present I would have voted "aye" on rollcall Nos. 362, 363 and "nay" on roll No. 361.

NATIONAL HOME CARE WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 175) to designate the weeks beginning December 1, 1991, and November 29, 1992, as "National Home Care Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I take this time in order to yield to our colleague and friend, the gentleman from California [Mr. PANETTA], the chief sponsor of the joint resolution.

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Mr. PANETTA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to take this opportunity to thank Chairman Sawyer for bringing the resolution to create a National Home Care Week in 1991 and 1992 before the House for consideration. I would also like to thank Mr. RINALDO, the original cosponsor of this bill, the other 226 House Members who have lent their support, and Senator HATCH, who has guided the companion bill through the Senate. Congress has approved similar resolutions for the previous 9 years to recognize the valuable services of home care programs and personnel, and I look forward to Congressional passage once again.

Thousands of home care agencies around the Nation have responded to the need for effective alternatives to our health care delivery system. By providing skilled medical assistance and supportive services to those who can be properly treated outside the hospital or nursing home setting, these agencies respond to the demand for new health care options and conserve tax dollars currently expended on needless placement in these institutions. This valuable concept of care provides a serviceable answer to the needs of our health care system, and offers a comforting, dignified environment for patients.

One of the most critical issues to face our Nation today is the state of our health care system. While the growing elderly population, expected to total well over 30 million by the year 2000, places greater demand on our current system, home care agencies have helped many of the elderly remain at home and in their communities. In addition, home care has proven to be a very suitable setting for many others with chronic, impairing diseases, including the large and growing number of persons suffering from AIDS and related illnesses. Home care creates an atmosphere of greater independence and dignity, and promotes maintenance of health as well as recovery. For this valuable service, home care agencies and persons employed in the home care industry should be properly recognized as well as commended.

As we reevaluate and reform our Nation's health care programs, especially in the vital area of long-term care, it is essential for us to take full notice of the benefits of home care and act to encourage its use. I again thank my colleagues for their support of this important resolution, and look forward to the opportunity to recognize this effective and humane health care alternative during the weeks of December 1, 1991, and November 29, 1992.

Mr. RIDGE. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in strong support of House Joint Resolution 175, which designates the weeks beginning December 1, 1991, and November 29, 1992, as "National Home Care Week," and I commend the gentleman from California [Mr. PANETTA] the chief sponsor of this resolution.

Home health care has become a vital alternative to institutional care as well as an important element in our Nation's health care system. Since the passage of Federal programs that enable patients to receive in-home care, home care agencies have increased from less than 1,000 to more than 12,000 agencies. The service provided by these agencies has effectively prevented the institutionalization of countless numbers of our older Americans.

Mr. Speaker, our Nation faces a crisis with respect to developing cost-effective, humane, long-term care for our older Americans. More than 2 million persons, age 65 or older, reside in institutions at a cost of more than $15 million. It is estimated that 25 percent of those residents do not require extensive institutionalized care.

The expansion of Federal benefits for home health care, in my opinion is a worthy investment during these times of budget constraints. Home health care can realize a significant savings and provide necessary medical assistance. Home care allows thousands of Americans to maintain independence, dignity, and a lifestyle at home, and be able to meet their health needs.

Accordingly, I urge my colleagues to join with me in supporting this important resolution.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. PARKER). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 175

Whereas organized home care services to the elderly and disabled have existed in the United States since the last quarter of the 18th century;

Whereas home care is an effective and economical alternative to unnecessary institutionalization;

Whereas caring for the ill and disabled in their homes places emphasis on the dignity and independence of the individual receiving these services;

Whereas since the enactment of the medicare home care program, which provides coverage for skilled nursing services, physical therapy, speech therapy, social services, occupational therapy, and home health aide services, the number of home care agencies in the United States providing these services has increased from fewer than 1,275 to more than 12,000; and

Whereas many private and charitable organizations provide these and similar services to millions of individuals each year preventing, postponing, and limiting the need for them to become institutionalized to receive these services: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the weeks beginning December 1, 1991, and November 29, 1992, are each designated as "National Home Care Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such weeks with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HIRE A VETERAN WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 280) to designate the week beginning November 10, 1991, as "Hire a Veteran Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to acknowledge the work of the gentleman from California [Mr. BROWN], the chief sponsor of this resolution, and also to yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am pleased to rise today in support of House Joint Resolution 280, designating the week of November 20, 1991, as "Hire a Veteran Week." and I commend the gentleman from California [Mr. BROWN], the chief sponsor of this resolution.

The latest statistic from the Department of Labor show that 667,000 veterans are unemployed, and that many are underemployed. This bill is a great way to urge help for those veterans who have served and defended our country in our time of need.

Veterans possess many special qualities and skills which make them ideal candidates for employment. Additionally, veterans bring a wealth of experience to the work environment and serve as valuable sources of information. These veterans maintain high standards of performance to meet the productivity expectations of their employers. Most importantly, they know what team work is all about.

House Joint Resolution 280 will remind employers of the advantages of hiring veterans. This measure will educate employers of the existing programs that encourage the hiring of veterans, such as: tax credits to employers for hiring veterans and employer eligibility for special job training partnership act veterans' funds.

Mr. Speaker, I invite my colleagues and all of our Nation's businesses to join in extending job opportunities to our veterans, as we recognize and appreciate the vital contributions our veterans have made to our society.

Accordingly, I urge my colleagues to support this important resolution.

Mr. RIDGE. Mr. Speaker, further reserving the right of object, I have a very good friend that was severely injured during the Vietnam war, John Fails, who is 100 percent disabled. He lost his eyesight. He is about as good a man as I have ever run across. He is a good vet and a good employee. He normally concludes his remarks with his friends and even with strangers with the expression, "Bet on a vet."

I would just encourage members of the business community, those looking for good employees, to make that wager, because I think the veteran will pay back a lot of dividends.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 280

Whereas the people of the United States have both a deep appreciation and respect for the men and women who serve our Nation in the armed forces;

Whereas, although veterans possess special qualities and skills which make them ideal candidates for employment, many veterans encounter difficulties in securing employment; and

Whereas the Department of Veterans Affairs, the Department of Labor, the Office of Personnel Management, and many State and local governments administer veterans programs and have veterans employment representatives both to ensure that veterans receive the services to which they are entitled and to promote employer interest in hiring veterans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning November 10, 1991, is hereby designated as "Hire a Veterans Week", and the President is authorized and requested to issue a proclamation calling upon employers, labor organizations, veterans organizations, and federal, State, and local governmental agencies to lend their support to the campaign to increase employment of the men and women who have served our Nation in the armed forces.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL PHILANTHROPY DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 140) designating November 19, 1991, as "National Philanthropy Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to acknowledge the work of my friend, the gentleman from Indiana [Mr. BURTON], who is the chief sponsor of this resolution. I know it means a great deal to him that the committee has brought this to the floor. We certainly strongly endorse this effort. I know that the gentleman from Indiana [Mr. BURTON] believes personally in philanthropy himself, and obviously is unavoidably detained, or I am sure he would be here to speak on this.

Mr. RIDGE. Mr. Speaker, having no further requests for time, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 140

Whereas as of 1989 there were more than 800,000 nonprofit philanthropic organizations in the United States;

Whereas such philanthropic organizations employ approximately 6,000,000 individuals, and use the services of approximately 4,500,000 volunteers;

Whereas in 1989 the people of the United States contributed approximately $114,000,000,000 to support such philanthropic organizations;

Whereas philanthropic organizations are responsible for enhancing the quality of life of people throughout the world;

Whereas the people of the United States owe a great debt to the schools, churches, museums, art and music centers, youth groups, hospitals, research institutions, community service institutions, and institutions and organizations which aid and comfort disadvantaged, sick, or elderly individuals; and

Whereas the people of the United States should demonstrate gratitude and support for philanthropic organizations and for the efforts, skills, and resources of individuals who carry out the missions of such organizations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 19, 1991, is designated as "National Philanthropy Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DUTCH-AMERICAN HERITAGE DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 177) to designate November 16, 1991, as "Dutch-American Heritage Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to acknowledge the sponsorship of this resolution by our colleague, the gentleman from Michigan [Mr. VANDER JAGT]. He is the chief sponsor of this resolution.

Mr. Speaker, having no further requests for time, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 177

Whereas, on November 16, 1776, the batteries at the Dutch port of St. Eustatius fired the 1st salute to the flag of the newly independent United States;

Whereas the firing by the Dutch of the 1st salute to the flag of the United States uplifted the morale and determination of the individuals who were fighting for American independence;

Whereas commemoration of Dutch-American Heritage Day provides an opportunity for approximately 8,000,000 Dutch Americans to celebrate their Dutch roots and the extraordinary contributions their ancestors made to the political, economic, and cultural development of the United States; and

Whereas commemoration of Dutch-American Heritage Day promotes awareness by the people of the United States of the essential role performed by the Dutch people in securing American independence and in aiding the development of the United States for the past 215 years; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 16, 1991, is designated as "Dutch-American Heritage Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the several joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ANNUAL REPORTS ON ACTIVITIES UNDER HIGHWAY SAFETY ACT AND NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection referred to the Committee on Energy and Commerce and the Committee on Pubic Works and Transportation.

(For message, see proceedings of the Senate of today, Thursday, October 31, 1991.)

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FOUNDATION FOR OCEAN AND COASTAL CONSERVATION IN THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. STUDDS] is recognized for 5 minutes.

Mr. STUDDS. Mr. Speaker, today I am introducing legislation to establish the Foundation for Ocean and Coastal Conservation in the United States [FOCCUS]. The bill, modeled after the National Fish and Wildlife Foundation Act, would create a nonprofit charitable foundation to support activities associated with important coastal and marine resource protection programs—primarily, but not limited to, the National Estuarine Research Reserves System [NERRS] and the National Marine Sanctuaries Program [NMSP].

The National Estuarine Research Reserves System is composed of specially designated estuarine reserves representing a variety of coastal regions and estuary types. These fragile and important areas, located where the saltwater of the ocean meets the freshwater of the land, serve as natural field laboratories where scientists can study both the natural and human processes that occur within estuaries. Estuaries are among the most biologically productive systems on Earth; more than two-thirds of the fish and shellfish that are commercially harvested spend part or all of their lives in estuaries. A total of 19 estuarine reserves have been established along the coasts of the United States and in the Great Lakes. Seven additional reserves are in development.

The National Marine Sanctuaries Program designates discrete coastal, marine and Great Lake areas to promote comprehensive management of their ecological, historical, recreational and esthetic resources. The NMSP is one of the few marine programs which protects whole ecosystems, thereby protecting individual species before they are threatened. To date, nine National Marine Sanctuaries have been designated; six additional areas are in development, and two more are under study. The unique resources currently protected by the sanctuaries program include the coral reefs in Key Largo, FL, endangered and threatened marine mammals in Cordell Bank, CA, and the wreck of the U.S.S. *Monitor* off the coast of North Carolina.

These two programs lack sufficient funding to carry out their responsibilities and the chance that they will get adequate funding decreases as the Federal deficit increases. The proposed fiscal year 1992 appropriations for NERRS and NMSP are about $3.7 million and $5 million respectively, a small fraction of the $1.7 billion National Oceanic and Atmospheric Administration budget, which is increasingly directed toward weather and satellite programs. With these small budgets, NERRS and NMSP must propose and designate new areas for protection, manage established areas, conduct research, help conserve the fragile but vital resources, and run public education and outreach programs. Historically, most of the programs' funds have been consumed by designation and management responsibilities, leaving little money for research, conservation, education, and public outreach.

The purpose of the legislation I am introducing today is to help generate private funds to bolster these activities which should be—but are not always—conducted. Under my legislation, the Foundation would be authorized to receive up to $1 million annually for 5 years. In addition to Federal funding, the Foundation would actively pursue private and corporate donations. State and local governments, private individuals, and nonprofit organizations would be eligible to apply for one-for-one matching grants from the Foundation to carry out specific conservation, research, education, or public outreach projects.

The bill would also establish a board of nine voting members who are not employed by the Federal Government with the Under Secretary of Commerce for Oceans and Atmosphere serving as an ex-officio member to appoint officers, hire employees, and adopt a constitution and by-laws for the Foundation. To help get the Foundation started, the Under Secretary would provide, without reimbursement, office space and administrative support and may provide personnel.

Mr. Speaker, through the work of the Fish and Wildlife Foundation we have seen a relatively small investment go a long way toward protecting our fish and wildlife habitat. Because of the success in generating private matching funds, Federal outlays have increased from $1 million annually to $5 million annually. The Fish and Wildlife Foundation now provides support and funding for more than 135 projects a year with an annual budget of $20 million.

It is my hope that the Foundation for Ocean and Coastal Conservation in the United States will provide a similar stimulus to coastal and marine programs. With Federal dollars growing increasingly scarce, this bill provides an opportunity to stretch our taxpayers' dollars farther by combining them with private matching funds. The result will be more comprehensive programs to protect these invaluable areas for ourselves and for future generations.

Mr. Speaker, this is a good bill and I urge its support.

SCHEDULING OF BUSINESS FOR HALLOWEEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. SANTORUM] is recognized for 5 minutes.

Mr. SANTORUM. Mr. Speaker, if I may engage in a colloquy with the gentleman from Pennsylvania [Mr. RIDGE]. It is now a quarter of seven here in the East. We got out of session today shortly before 6 o'clock. Does the gentleman from Pennsylvania know why we left early today?

Mr. RIDGE. Mr. Speaker, will the gentleman yield?

Mr. SANTORUM. I yield to the gentleman from Pennsylvania.

Mr. RIDGE. It is my understanding, and I think properly so, that the leadership on both sides of the aisle wanted to accommodate Members and families who live in and around the Washington area to keep the evening free so that Members and families who live in and around the Washington area could go home and enjoy the Halloween evening with their young children at home. I think it is certainly commendable and appropriate that we adjourned for that.

Mr. SANTORUM. Mr. Speaker, I appreciate that.

The question is, we did that in the middle of doing amendments on the banking bill; is that not correct?

Mr. RIDGE. That is correct.

Mr. SANTORUM. As a result, we are going to be in tomorrow at 10 a.m., if I am not mistaken.

Mr. RIDGE. If the gentleman will continue to yield, I think that is what the schedule says.

Mr. SANTORUM. As a result of that, those of whom you or I are in a similar situation who have families outside of the beltway, who have families at home, were not able to spend the evening with their children celebrating trick or treat. Is that not the understanding?

Mr. RIDGE. It is.

I think that the gentleman and I talked a little bit earlier this evening. I am pleased that we were sensitive to the needs of the families here in the Washington community.

Mr. SANTORUM. I concur with the gentleman. I agree we should be.

Mr. RIDGE. The point, in fact, is that there are many of us who have young families at home. We have chosen to go back to our districts every weekend. We have chosen to raise our families in the districts that we represent.

I might add, it is not only the fact that my last flight left at 4:10 to join my kids tonight, but because of this and the unlikelihood of our completing the banking bill tomorrow, we will be back on Monday, if we do not complete it tomorrow, which means not only did we not get home tonight because of trying to accommodate Washington-based families, but we will be back a day earlier.

Certainly they do not have any problem because they are going back home again on Monday night. So while I think that it is well that we accommodate families who live in and around Washington, I would like to think that the leadership on both sides of the aisle and those who are responsible for scheduling have a little bit more empathy and sympathy for those of us who have families at home.

I think the gentleman has a young family at home as well.

Mr. SANTORUM. Mr. Speaker, I do. This, in fact, is the first trick or treat, the first Halloween for my 7-month-old daughter. And she is dressed up as a pumpkin tonight, my wife tells me, and has been handing out candy to friends around the neighborhood.

I just want to tell her, if she happens to be watching me back at home, that I miss her very much and I wish I could be there also and that hopefully that this institution will start to have some sensitivity to families who wish to stay in their districts and live in their districts and to be part of the community, that we also are given consideration on the sensitive times and that, Elizabeth, if you are watching, I love you and thank you for putting up with your daddy.

Mr. RIDGE. If the gentleman would continue to yield, I think it is a dilemma for a lot of Members, Republicans and Democrats alike, those with young families.

I know behind the back rail over the past couple of years, I have heard a lot of us who choose to keep our families at home have these private discussions. So when the gentleman asked me to engage in this colloquy, I was very pleased to do it.

I think it is high time that people in this Chamber understand that not everybody lives in Washington, DC. Some of us by choice choose to live, work, worship back home. And when they go about scheduling things around this town, that they have a little bit more consideration for those of us to choose that particular life-style.

I am delighted that my friends around here are back home with their families. Obviously I am a little upset and disappointed that I cannot be home with mine. But hopefully, in the future, they will have a little more sensitivity to us.

I thank the gentleman for asking me to participate in this colloquy with him.

Mr. SANTORUM. Mr. Speaker, I thank the gentleman for doing so.

TRIBUTE TO MARK LEMKE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. BOEHLERT] is recognized for 5 minutes.

Mr. BOEHLERT. Mr. Speaker, the World Series is now history. The excitement and shouting are over and but a memory lingers.

I have intentionally waited several days to give my colleagues from Minnesota and Georgia the opportunity to take their rightful place in the limelight as we recall with fond memories the fall classic. But now I want to tell my colleagues about the New York connection because I think it is appropriate that all America recognize the very special involvement had in this World Series.

We can recall out at the Hubert Humphrey Stadium in Minnesota people holding up a sign that said, "What is a Lemke?"

Well, I am here to tell my colleagues what a Lemke is. A Lemke is an exciting, talented young athlete from Whitesboro, NY, attended Notre Dame High School, who chased a dream and through grit and determination and hard work he achieved that dream, playing second base for the Atlanta Braves in the World Series.

And all the eyes of the sports people and fans around the world were focused on what was happening in that fall classic.

What did Mark Lemke do? He earned a warm spot in all of our hearts. He not only won game three with that dramatic 12th inning hit, which earned for him the most valuable player award. Then in game four he continued his winning ways and scored the winning run. And he did not rest on his laurels. In game five he continued, setting a World Series record by hitting two triples.

Mark Lemke, day after day, showed up for the job and did it to the best of his ability. And, boy, did his ability shine. He batted .417.

Here is a young man who came to the Atlanta Braves this year in spring training, was not even on the full team roster. As a matter of fact, some people were speculating that maybe Mr. Lemke would be sent back to the minors.

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But he would have none of that. You see, this young kid, and he is a fine gentleman, worked hard. He did everything we tell our young people to do. He finely tuned his skills. He was there early. He practice hard. He kept giving it his all. Then in the fall classic came his moment in the limelight, batting .417. People all over were saying, "Who is this kid? Where did he come from?"

I am here to tell you, my colleagues, where he comes from. He comes from beautiful upstate New York, Whitesboro, to be exact. And he is the personification of all that we look for in our young people; a very modest kid, but a very talented kid who worked hard and who displays his skills for all to see.

He did so much for so many in those six of seven games that he played. He did not even start or play in the first game, but boy, he got his chance and he made it.

I will tell you what a Lemke is. A Lemke is a role model for young people, not just young people in age, but young people in spirit. I will tell you this, watch out for next year, because Mark Lemke of the Atlanta Braves has arrived, and he is going to continue to serve as a role model for young people to perform at his trade to the best of his ability, and boy, did he rise up to the occasion.

It is a pleasure to serve as the Representative in Congress for the Lemke family. It is exciting for me as a fan to turn on that TV and see one of our best and brightest young people, one of our most talented young people, excel at America's sport.

So I am here today to tell my colleagues from Minnesota congratulations, you have earned them. I am here to tell the people of Georgia that you should be proud of those Braves. They did a magnificent job. And I am here to encourage young people all across this land to follow the example set by a wonderful, talented young man named Mark Lemke.

Mr. Speaker, I include with my remarks a very moving column written for the Observer-Dispatch of Utica, NY, by a talented sportswriter, Marty Lyons.

AS THE SPOTLIGHT SLOWLY FADES, LEMKE THE MAN IS STILL SHINING

(By Marty Lyons)

"What is a Lemke?"

A sign hanging from a railing at the Metrodome posed the question Sunday night during Game 7 of the World Series.

From all accounts, a Lemke is indigenous to Whitesboro, where it spends its formative years romping in the dirt and grass of local playgrounds.

A Lemke is friendly enough, but corner one on a baseball field and see how it scratches and claws and digs in. A Lemke is usually overshadowed by larger and stronger creatures but every so often gets caught in a spotlight and casts its own long shadow.

Mark Lemke's incredible rise to World Series fame is over, but fans here and in Minnesota will long remember the battle-tested second baseman who brought the Atlanta Braves to the brink of the World's Championship with his clutch hitting and hustle.

What is a Lemke?

He's a 27th-round draft pick who spun his wheel in the Class A bushes for three seasons and didn't hit the big time to stay until his eighth pro season. He's a guy who used baseball mitts broken in by a younger neighbor to forge the reputation as a defensive whiz that carried him to the major leagues. And he's a guy who takes nothing for granted, after reading quotes from his former manager, Russ Nixon, that he would be Atlanta's starting second baseman on opening day in 1989 and then being sent back to the minors.

"He's the original dirt player," said his current manager, Bobby Cox.

In the past week, Lemke rose from the dirt to become a made-for-TV star.

He drove in the winning run in Game 3, scored the winning run in Game 4 and tied a World Series record with two triples in Game 5. He led the Braves with a .417 batting average.

Suddenly, cameras were following him home to tape him opening his front door, just to show he's a regular Mark. CBS sportscaster Pat O'Brien wanted to have breakfast with him at 8 a.m. Lemke politely declined, since he wasn't getting to sleep until 4.

That's another thing we learned about Lemkes. They need their rest.

Lemke was Atlanta's front-runner for Series MVP and still might end up sitting next to David Letterman this week, if Minnesota pitcher Jack Morris, who did win the MVP, can't make it to "Late Night."

The head-spinning ride will slow to a crawl today, with convertibles carrying Lemke and his teammates down Peachtree Street in Atlanta, the sounds of adoration washing over them one last time.

And when the parade is over, what then?

Lemke will probably spend a week or so in Atlanta, his mother, Patricia, said last night. If he follows his form of past years, he'll then spend a couple of weeks visiting his brother and sister in Florida.

"Then he might come home," Patricia Lemke said. "I just don't know. It's very difficult to say."

He might be home for Mark Lemke Day in Whitesboro Nov. 16. If he can't make it, he'll have a reason and likely send his regrets, if the family members, friends and former coaches who have been interviewed in the past week by the nation's media are correct in their character assessments.

A $138,000 annual salary has allowed Lemke to upgrade his wardrobe to include $500 suits, joked friend Al Calogero of New Hartford, but he doesn't "big league" it, a term for players who forget their past in the flush of fame.

Everything Lemke said during his dream week suggested he remained in touch with reality.

"I think the fact that the Series is so magnified makes your contribution seem above the level that you are playing all season long," he said.

And this.

"I just want to say thanks to my family and friends in Utica for their support for the Braves and for myself throughout my career. And to thank them for giving me the opportunity as a youth to play ball."

What is a Lemke?

A pain in the neck to the Minnesota Twins.

A big league ballplayer with spikes planted firmly at home.

IRAN'S NUCLEAR EFFORT

The SPEAKER pro tempore (Mr. PARKER). Under a previous order of the House, the gentleman from Florida [Mr. MCCOLLUM] is recognized for 5 minutes.

Mr. MCCOLLUM. Mr. Speaker, I rise to bring to the attention of my colleagues two reports published by the House Republican Task Force on Terrorism and Unconventional Warfare, of which I am the chairman. I will include these two reports to be submitted into the RECORD following this statement.

These reports, published in July 1991, address the issue of Iran's nuclear effort. They are especially apropos in lieu of recent media accounts that the People's Republic of China has assisted Iran in the advancement of Iran's nuclear technological capabilities and the fact that this information was adamantly denied by senior administration officials this summer.

Keeping in mind the times at which these reports were released, it is asserted that, "Iran appears to be both nearing rudimentary military nuclear capabilities on its own and to be gaining access to Pakistan's operational nuclear arsenal and mature military nuclear technology at the same time." In addition, "there are indications that an imminent and fairly large cooperative endeavor is being contemplated with the People's Republic of China."

The reports go on to state that:

* * * in the summer of 1991, Iran is more determined than ever to acquire military capabilities because such strategic capabilities constitute an integral part of Teheran's plans for a greater strategic role and posture in the Persian Gulf. Toward that end, Teheran has embarked on "ambitious and aggressive" plans for "the modernization, diversification and nuclearization of its armed forces. The primary sources for the strategic technologies are Pakistan and North Korea.

In the words of Hashemi-Rafsanjani: "We are determined to complete these major nuclear projects and will do so with the help of God."

I find it of great concern that the information released in these reports, information that is based upon the meticulous research and analysis of public documents, was so easily dismissed by senior officials within the administration. However, what is even more disconcerting is the fact that, as was uncovered several weeks ago by Lally Weymouth of the Washington Post and reported in today's edition of the newspaper, similar evidence was also given to these senior officials this summer by our own intelligence community and was likewise ignored and publicly refuted.

I encourage my colleagues to thoroughly read these documents and am assured that you will find them extremely informative and enlightening.

The articles referred to previously follow:

IRAN'S NUCLEAR EFFORT

(By Yoseff Bodansky and Vaughn S. Forrest)

Iran appears to be both nearing rudimentary military nuclear capabilities on its own, and to be gaining access to Pakistan's operational nuclear arsenal and mature military nuclear technology at the same time. Indeed, since Khomeyni seized power, Teheran has tried to revive and expand the Shah's semi-clandestine nuclear weapons program. Thus, in 1986, Iran began a second and fast track approach to obtaining a nuclear capability through a cooperation agreement with Pakistan according to which Iran would have access both to Pakistan's weapons and technology.

The origins of this project stem from the period when Khomeyni's closest aids began to investigate Iran's military nuclear potential almost immediately after seizing power in February 1979. In May of that same year, Ayatollah Mohammad Beheshti summoned Dr. Freidun Fesharaki, one of Iran's leading nuclear scientists, for an interview in Teheran. Beheshti had with him proposals for the conversion of Iran's nuclear reactors, constructed during the Shah's regime, to the production of nuclear weapons that had been written by Dr. Fesharaki several years before. Beheshti showed Fesharaki the documents and wanted to know if they could still be implemented. "It is your duty to build this bomb for the Islamic Republican Party. Our civilization is in danger and we have to do it," Beheshti stated. He then told Fesharaki that the potential cost of such a project was irrelevant and sent him to the West to recruit Iranian scientists who had escaped during the revolution, whereupon, Fesharaki seems to have defected. (His subsequent career, it should be noted however, would have twists suggesting that his defection may in fact have been faked.)

At the time of Fesharaski's "defection", Iran had 5 reactors in different stages of construction. A 5 megawatt (mw) US-made research reactor was operational at Teheran Polytechnique, later renamed the Amir Kabir College. Two additional 1300 mw (each) reactors were being built by the West German Kraftwerk Union company in Bushehr. (In 1979, one was 75–80% complete and the other 60% complete.) Finally, the French company Framatome had just begun building a 935 mw reactor in Darkhouin. However, by the time the project had begun, the Shah's government had invested more than $1b in the French nuclear program in a contract that would permit Iran virtually free access to French nuclear technologies and to large quantities of military-grade enriched uranium. Nonetheless, by the time of the Khomeyni Revolution, Iran had not received any technology or the uranium.

In the summer of 1982, Teheran approached the Kraftwerk Union company and demanded the resumption of the work on the Bushehr reactors. After 3 years of negotiations, Bonn vetoed the project. However, all this time, construction and technical conditioning work was being carried out via the Fritz Werner company, then already running several armament production facilities in Iran. (Indeed, a German technician was killed when the Iraqi Air Force bombed Bushehr in 1987.) In 1985, Kraftwerk Union arranged for an Argentinean subsidiary to train Iranians and to deliver 20% enriched uranium and nuclear core technology to both Bushehr and the Amir Kabir College. Argentinean support and supplies continued to arrive at least until 1988. Ultimately, in March 1987, Iran informed the International Atomic Energy Agency (IAEA) that it had installed fissionable material in the Bushehr I reactor.

During this time, Iran had also been pursuing alternate means of obtaining nuclear materials. In the Amir Kabir College, scientists were trying to activate 4 US-made laser separators, delivered back in 1978, to produce weapons grade uranium. In Isphahan, a Nuclear Research Institute was opened in 1984 with technical assistance from France and Pakistan. This institute opened the door to Iran's short-cut to the bomb. Further, in February 1986, Pakistan offered to train Iranian nuclear scientists in return for financial support for Pakistan's own nuclear program.

Meanwhile, the Iranian military nuclear program had been accelerating since mid-1985, with Teheran launching an intense recruitment effort of Iranian scientists and students living abroad, as well as of foreign scientists and expert technicians. The Iranians were promised, in addition to a generous salary, a complete amnesty to all members of their extended family; quite an inducement in view of the terror than prevailing in Teheran. The response was sufficiently promising for the Atomic Energy Organization of Iran (AEOI) to run a conference in Bushehr on 14–19 March 1986 about employment prospects and research potential in Iran for interested visitors.

Subsequently, in January 1987, Iran's leading nuclear scientists held a high level meeting in the Amir Kabir College. Dr. Fesharaki returned to Teheran at that time, but denied taking part in the conference despite the fact that others in attendance insisted that he was present in some of the sessions/meetings. Another key visitor to Iran at the time was Dr. Abdus Qadir Khan, the father of the Pakistani bomb. He visited both Teheran and Bushehr to assess the Iranian nuclear potential and to discuss future cooperation with the Iranian leadership. Ayatollah Ali Kamene'i, then Iran's president, took part in the conference and delivered a speech to the participants. "Regarding Atomic energy, we need it now," he declared. "Therefore, we need a tireless effort from all of you brothers in this field. Our nation has always been threatened from outside. The least we can do to face this danger is to let our enemies know that we can defend ourselves. Therefore, every step you take here is in defense of your country and your revolution. With this in mind, you should work hard and at great speed."

Soon afterward, Iran and Pakistan signed an agreement on technical cooperation in military nuclear fields. Two senior Iranian scientists, Sayyid Reza and Hadi Rambashahr, went to Kahuta and were later joined by a few other Iranians to begin organizing a training program. Within a year, over 30 Iranian nuclear specialists had been sent to Pakistan, mainly Kahuta, to join the Pakistani program and receive advanced training. Eventually, all the Iranians became involved in several key aspects of weapons construction, including Plutonium extraction.

In the meantime, Teheran left no doubt about its interest in a comprehensive military program for the development of weapons of mass destruction. On 6 October 1988, Hojjat ol-Islam Ali Akbar Hashemi-Rafsanjani outlined Iran's policy in a speech to officers of the Islamic Revolutionary Guards Corps:

"With regards to chemical, bacteriological, and radiological weapons training, it was made very clear during the war that these weapons are very decisive. It was also made clear that the oral teachings of the world are not very effective when war reaches a serious stage and the world does not respect its own resolutions and closes its eyes to the violations and all the aggressions which are committed in the battlefield.

"We should fully equip ourselves both in the offensive and defensive use of chemical, bacteriological, and radiological weapons. From now on you should make use of the opportunity and perform this task."

Subsequently, there was a corresponding progress in Iran's nuclear technologies capabilities. By 1988, the installations in the Amir Kabir College, most likely the German-Argentinean equipment, were capable of extracting Plutonium, although it was not clear how long it would take to have enough for a bomb. By late-1989, the Pakistanis were helping Iran to optimize a reactor for the extraction of Plutonium and Iran was also expected to become the first importer of Pakistan's new reactor of indigenous (with Chinese assistance) design. Speaking in an exhibition of Chinese electronic equipment in Karachi on 16 January 1991, Munir Ahmad Khan, the Chairman of Pakistan's Atomic Energy Commission, declared that "Pakistan has achieved some extraordinary success in the manufacturing of nuclear fuel and is now manufacturing a nuclear reactor and a power generating reactor." He added that "China's backing for Pakistan's peaceful nuclear efforts is encouraging and praiseworthy." Subsequently, Iran launched an intense program to discover indigenous sources of uranium and on 2 December 1989 announced the discovery of deposits containing 3200 tons of uranium and 4200 tons of molybdenum.

Thus, Iran continues to expand its nuclear cooperation with other Third World countries with emphasis on easy access to US technology. For example, Iran's AEOI signed an atomic cooperation agreement with Mexico on 28 April 1991. Under the agreement, Iranian students and specialists will be sent for advanced studies and exchange work in Mexico while Teheran will finance several projects of the Mexican energy and mining industries.

In addition, the Gulf Crisis further propelled both Teheran and Islamabad to significantly accelerate their military nuclear programs. The Karachi *Nawa-i-Wagt* observed on 25 January 1991 that in view of the Gulf situation, "Pakistan needs credible 'nuclear deterrence' to avoid the dangers of war. . . . in the subcontinent." Islamabad, in this context, is anticipating a major clash with the US over strategic issues, including the Pakistani military nuclear program, as part of America's confrontation with the rise of Islam as a world power. Thus, on 1 February 1991, *Nawa-i-Wagt* warned that "the United States just cannot bear any Arab or Islamic country to develop nuclear capability,'" and toward this end, "the United States is forcing itself on Pakistan's nuclear program."

Iran rallied immediately to Pakistan's banner. The Speaker of the *Majlis*, Hojjat ol-Islam Mehdi Karrubi, arrived in Islamabad in late February to discuss military cooperation, including defense industries and nuclear weapons. Karrubi announced that "no country has the right to come here and make decisions about the future of Islamic countries." He then emphasized "the need to increase cooperation between Pakistan and Iran" because "there is a great need for the defense of this region." Iran then deposited $50m "in revolving funds" in Pakistani banks for the support of special key Pakistani defense programs, especially nuclear related programs.

Thus, Islamabad sees in even tighter cooperation with Teheran the key to its regional strategic posture. On 26 February, the *Nawa-i-Wagt* hailed, the special pacts" between Iran and Pakistan and urged their expansion in view of the current circumstances.

"In Pakistan nuclear education is not available because we have been relying on 'foreign sources.' The doors to these sources have now been closed on Pakistani students. Pakistan's future is linked to nuclear education. It would be beneficial to regional independence and security, if Iran and Pakistan cooperate and conclude major pacts in nuclear education for joint syllabus, joint instructions, and joint laboratories."

Such cooperation is seen as a central component in a comprehensive alliance between the two countries against a common enemy, namely, the US. "The backbone of the superpowers, which are still in the Gulf continuing the political shelling on Iran and Pakistan, cannot be broken. We believe that a closer military cooperation between Iran and Pakistanis is just a matter of time and both countries should pay closer attention to it."

Emboldened by such rhetoric, Iran has surged ahead in its attempts to regain Western nuclear technologies and materiel. Indeed, the Iranian Atomic Energy Organization (IAEO) renewed its requests for assistance from Germany and for the delivery of enriched uranium from France.

Thus, on 29 June 1991, Teheran announced that it "cannot remain indifferent" in view of the German refusal to assist in the completion and activation of the two reactors in Bushehr. Iran was willing to immediately invest the $30m required to update the safety procedures in the reactor as required to meet German regulations. Iran also threatened Germany with legal action in order to recover the $10b Iran claimed to have been lost because of the German delays in completion of Bushehr. In early-July, the IAEO appealed to the Germans to reconsider their position. Teheran was willing to understand Germany's reluctance to provide spares during the war when the Bushehr site was subjected to Iraqi air attacks, but could see no reason for refusal to sell parts now that the war was over.

Late, in July, as part of the great rapprochement with France pending the September visit by President Mitterand to Teheran, Iran suddenly brought up the issue of the enriched uranium purchased by the Shah and demanded that it be delivered to Iran. Iran announced that it was even willing to renew its investment in the "Eurodif" (French nuclear industries) project if this would expedite the delivery of uranium.

At first, the French rejected any possibility for nuclear cooperation. However, with enticing financial arrangements, and with the emergence of a back door approach, namely, the restoration of the existing site in Darkhouin through Pakistani intermediaries, the deal is not completely dead. Reportedly, France is even said to be willing to consider supplying non-military 20% enriched uranium.

Thus, in the summer of 1991, Iran is more determined than ever to acquire military nuclear capabilities because such strategic capabilities constitute an integral part of Teheran's plans for a greater strategic role and posture in the Persian Gulf. Toward that end, Teheran has embarked on "ambitious and aggressive" plans for "the modernization, diversification and nuclearization" of its armed forces. The primary sources for the strategic technologies are Pakistan and North Korea, while the setbacks caused by French and German reluctance to provide nuclear technologies and enriched uranium do not discourage Teheran. "We are determined to complete these major [nuclear] projects and will do so with the help of God," Hashemi-Rafsanjani declared on July 7.

Thus, if Iran's dogged efforts to acquire other strategic capabilities such as chemical and biological weapons, as well as surface-to-surface ballistic missiles, are to serve as indications of the future of Iran's nuclear weapons program, then the world should get used to the idea of Iran as a likely nuclear power.

(This paper may not necessarily reflect the views of all of the Members of the Republican Task Force on Terrorism and Unconventional Warfare. It is intended to provoke discussion and debate.)

TASK FORCE ON TERRORISM AND UNCONVENTIONAL WARFARE, HOUSE REPUBLICAN RESEARCH COMMITTEE, U.S. HOUSE OF REPRESENTATIVES

Washington, DC, July 29, 1991.

IRAN'S NUCLEAR EFFORT—UPDATE

(By Yossef Bodansky and Vaughn Forrest)

(EDITOR'S NOTE.—The following paper is a further elaboration on the recently released Task Force paper dealing with the efforts of the Iranian government to develop nuclear weapons technology. This is intended as a supplement to that paper.)

When Ali Akbar Hashemi-Rafsanjani declared on July 7, 1991 that Iran was "determined to complete these major [nuclear] projects and will do so with the help of God," Iran was actually even closer to realizing its objective than had previously been known. The setbacks caused by French and German reluctance to provide nuclear technologies and enriched uranium motivated Teheran to immediately strike a deal with the People's Republic of China that brought it significantly closer to its dream of a nuclear arsenal. Thus, in retrospect, it seems that the rejection of Iran's approach to France and Germany earlier this summer was actually a last check on them prior to committing to decisive cooperation with the PRC.

The turning point in Iran's quest for nuclear weapons was on 8–9 July during the visit to Teheran by China's premier Li Peng. The original objective of the visit was to conclude a series of military, military-industrial, and economic agreements with Iran totalling about $5b a year. These agreements were signed in Teheran by Li Peng and Hashemi-Rafsanjani.

However, on the eve of the visit, as the reluctance of the West to resurrect the Iranian nuclear program was becoming apparent, Teheran agreed to Islamabad's repeated urgings to rely on the Chinese as the primary, and virtually sole, source for military nuclear technologies. Iranian nuclear experts had been exposed to Chinese military nuclear technologies while working in Pakistan and had grown to like it. Moreover, the Chinese had observed the Iranians at work. Thus, in June, Islamabad urged Beijing to respond favorably to Iranian requests for aid and hailed the benefits and effectiveness of their on-going close cooperation with Iran.

Subsequently, Beijing agreed in principle, but conditioned the final decision on strategic discussions with the Iranian leadership and first-hand thorough inspection of conditions in Iran. Li Peng's visit to Teheran provided an opportunity for meeting both conditions. He held lengthy discussions with Hashemi-Rafsanjani and the Iranian elite about Iran's and the "Muslim Bloc's" regional strategies, and the prospects of close cooperation with Pakistan. Li Peng was then taken to Isfahan to inspect the main military-industrial complexes where Chinese and North Korean experts and technicians were helping to develop Iran's growing missile industry. He talked to the senior Chinese experts on site about their working conditions, their assessment of the Iranian technological capabilities and the overall security of the projects.

Li Peng was apparently satisfied with what he saw, because he subsequently agreed to provide Iran with "the necessary expertise and technology for the completion of an Iranian nuclear reactor." The specific details of this plan are to be completed this summer. The Iranians would like to expedite the program by building on their existing cooperation with the Pakistanis, an arrangement which suits Beijing's interests.

Indeed, so eager was Iran to placate China in this regard that the IRGC Commander, Mohsen Rezai left almost immediately for a high level visit to Pakistan. He met in Islamabad with the President, the Prime Minister and the entire high command "to review issues in the area of defense and ways of consolidating unity between the two countries." The other major aspect of Rezai's visit was that he and "the Iranian military delegation inspected a number of military industries as well as the new weapons Pakistan has manufactured with the help of a number of countries, including China." Teheran presented the visit as a strategic milestone in the effort to rejuvenate the Muslim world.

Although no specific details were provided as to the extent and timing of the Iranian cooperation with the PRC, there are indications that an imminent and fairly large cooperative endeavour is being contemplated. Further, in return for nuclear assistance, Teheran also promised not only not to agitate the Muslims of Xinkiang, where the bulk of the PRC's military nuclear facilities are located, but even to send Mullahs to preach and urge cooperation with Beijing.

Therefore, Iran seems to be on the verge of the final phase of the process of acquiring at the very least a rudimentary military nuclear capability, and possibly even more sophisticated weapons, through direct assistance from the PRC and by gaining access to Pakistan's operational nuclear arsenal and mature military nuclear technology.

(This paper may not necessarily reflect the views of all of the Members of the Republican Task Force on Terrorism and Unconventional Warfare. It is intended to provoke discussion and debate.)

Mr. Speaker, I understand it is your birthday today, and I wish you a happy birthday.

The SPEAKER pro tempore. The Chair appreciates that.

DEMOCRATIC TRICK OR TREAT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. ROHRABACHER] is recognized for 60 minutes.

Mr. ROHRABACHER. Mr. Speaker, it is Halloween, and everyone in this body tries to get in the spirit of the holiday. But we Republicans are disadvantaged because it is the Democratic Party which is the party of tricks and treats. The trick is telling the American public that our tax system is unfairly burdensome on the poor. The treat is the pork and expensive favors that they hand out to every special interest group that comes knocking at their door.

The Democrat gremlins have been claiming over and over and over again that Republican tax policies favor the rich.

Consider this: In 1981, the richest 1 percent of taxpayers paid 18 percent of all taxes. In 1988, after 8 years of Reagan administration, that wealthiest 1 percent paid 27 percent.

Today: The wealthiest 50 percent of taxpayers pay 95 percent of all income tax, and 83 percent of all Social Security taxes.

Republicans believe in lower tax rates for all—which yields higher revenues for the Government.

The ghoulish spenders and taxers on the other side of the aisle are trying to stir class hatred between rich and poor. This yields high deficits, unemployment, and, ironically enough, lower tax receipts.

But let's truly unmask the Democrats' tax charade:

If the tax rates of the last Democratic administration were still in effect:

A family with annual income of $10,000 would pay 134 percent more in taxes.

A family with annual income of $1 million would pay only 62 percent more in taxes. Of course, they would still have their tax loopholes written into the Code by Democrats so their rich buddies in Hollywood and Wall Street would be paying much much less.

Worse than that, the interest rates would be 21 percent, we'd have double digit inflation, and our deficit would be twice as big. Frighteningly, we already are seeing the rise of an eerie spectre: the Ghosts of Halloween Past, if you will. It's none other than Old Man Malaise. Why is he around again?

Well, to the degree that the economy is now in trouble, it can be traced to the power of liberal big spending Democrats to reassert their policies of tax and spend. It started downhill after the liberals regained control of the Senate in 1986, and peaked last November when they put President Bush's back against the wall and forced him to accept a massive tax hike, even on a fragile economy. Now with the country on the skids, one of the Democrats' chief economic hobgoblins, Senator BENSTEN is calling for a tax cut. Surprise. Surprise.

How is this possible?

That's because it doesn't take a fortuneteller to realize what a success the Republican tax cuts of the 1980's were in raising revenue. In fiscal year 1981, tax receipts equaled $599 billion. By fiscal year 1988, they were over $1 trillion. That's a 43-percent increase in revenue fueled by the largest tax cut in history. So Republicans gave us lower taxes, more jobs, and economic growth.

Take that to the pumpkin patch and sell it.

Nevertheless, we have big-spending liberals who claim that increasing the Federal take from $599 billion to over $1 trillion isn't enough. They blame a lack of taxes for our increasing deficit. But if tax receipts have risen sharply, why is the deficit growing at a horrifying rate? It's simple—the powers that be in the U.S. Congress have been giving treats to their friends and supporters at an evermore accelerated pace than our increasing tax revenues. In the last 3 years spending has increased, this at the same time defense spending was shrinking. Until we control spending, the deficit will continue to soar like a witch on a broom.

But Mr. Speaker, I've got a better use for that broom: It's time to sweep the big taxers and spenders out the door. They've done too much damage to our economy. The people are frightened out of their wits, and justifiably so.

The Democrats offer us howls and wailing. Republicans offer policies which encourage real economic growth and higher take-home pay that won't be gobbled up, like so much Halloween candy, by the Federal cookie monster.

We are now witnessing the spectacle of some Democrats, like Senator BENTSEN embracing a tax cut to stimulate growth, while other Democrats are pushing to increase the tax burden on the American people. And the people don't buy the line that somebody else is paying those taxes. They know that in the end the Government will be putting its grasping hands into their bag of candy.

Because of the fairness of the Reagan-Bush tax program real income for all Americans has grown 16.4 percent between 1981 and 1988. During the failed Carter administration, real growth grew a paltry 4.1 percent. That's not a full picture, of course. It takes 2 years for a policy to be put in place and have an impact on any society. That means the Democrats should be judged on the years 1979 to 1983. What a disaster. Even Kevin Phillips can't make that look good. He can only blame it on Reagan.

On a per-person basis, for example, the family incomes of the poorest 20 percent declined 17.4 percent between 1979 and 1983.

Between 1983 and 1989, the poorest 20 percent saw income rise 11.8 percent. The Republican economics.

It's time for the other side to quit tricking the public. Our citizens don't deserve to be needlessly spooked by your liberal gobbledygook. Let's level with the American public and establish a truly fair tax system.

That means lower taxes and lower spending.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. LLOYD (at the request of Mr. GEPHARDT) for today on account of illness.

Mr. SAVAGE (at the request of Mr. GEPHARDT) for today on account of illness.

Mr. BILIRAKIS (at the request of Mr. GEPHARDT) for today, tomorrow, and until 2 p.m. on Monday, November 4 on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SANTORUM) to revise and extend their remarks and include extraneous material:)

Mrs. MORELLA, for 5 minutes, today.

Mr. RIGGS, for 60 minutes, today.

Mr. CRANE, for 5 minutes each day, on November 6 and 7.

Mr. ROHRABACHER, for 60 minutes, today.

Mr. BOEHLERT, for 5 minutes, today.

Mr. SANTORUM, for 5 minutes, today.

(The following Members (at the request of Mr. BERMAN) to revise and extend their remarks and include extraneous material:)

Mr. SKELTON, for 5 minutes each day, today and on November 1.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. STUDDS, for 5 minutes, today.

Mr. MILLER of California, for 60 minutes, on November 6.

Mr. DURBIN, for 60 minutes, on November 6.

Mr. FRANK, for 60 minutes, on November 6.

Ms. DELAURO, for 60 minutes, on November 6.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SANTORUM) and to include extraneous matter:)

Mr. BROOMFIELD.

Mr. GILMAN.

Mr. GALLO.

Mr. JOHNSON of Texas.

Mr. BILIRAKIS.

Mr. CUNNINGHAM.

Mr. GOODLING.

Mr. HUNTER in three instances.

Mr. FIELDS.

Ms. ROS-LEHTINEN.

Mr. GALLEGLY.

Mr. GEKAS.

Mr. DREIER of California.

Mr. MCEWEN.

Mr. ZIMMER.

Mrs. BENTLEY.

(The following Members (at the request of Mr. BERMAN) and to include extraneous matter:)

Mr. ROEMER.

Mr. ANDREWS of Texas.

Mr. TRAFICANT in five instances.
Mr. MURTHA.
Mr. EDWARDS of California.
Mr. LANTOS.
Mr. DARDEN in two instances.
Ms. KAPTUR.
Mr. RUSSO.
Mr. RANGEL.
Mr. LIPINSKI.
Mr. JACOBS.
Mr. VISCLOSKY.
Ms. PELOSI.
Mr. GUARINI.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1350. An act to formulate a plan for the management of natural and cultural resources on the Zuni Indian reservation, on the lands of the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation, and in other areas within the Zuni River watershed and upstream from the Zuni Indian Reservation, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1467. An act to designate the United States Courthouse located at 15 Lee Street in Montgomery, Alabama, as the "Frank M. Johnson, Jr. United States Courthouse"; to the Committee on Public Works and Transportation.

S. 1530. An act to authorize the integration of employment, training, and related services provided by Indian tribal governments; to the Committee on Interior and Insular Affairs.

S. 1889. An act to designate the United States Courthouse located at 111 South Wolcott in Casper, Wyoming, as the "Ewing T. Kerr United States Courthouse"; to the Committee on Public Works and Transportation.

S. 1891. An act to permit the Secretary of Health and Human Services to waive certain recovery requirements with respect to the construction or remodeling of facilities, and for other purposes; to the Committee on Energy and Commerce.

□ 1900

ADJOURNMENT

Mr. ROHRABACHER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 8 minutes p.m.), the House adjourned until tomorrow, Friday, November 1, 1991, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2280. A communication from the President of the United States, transmitting a report on Possible Effects of a Strategic Arms Reduction Agreement on the Trident Program, pursuant to Public Law 101-189, section 1001(a) (103 Stat. 1539); to the Committee on Armed Services.

2281. A communication from the President of the United States, transmitting a report entitled, "Verification of Nuclear Warhead Dismantlement and Special Nuclear Material Controls," pursuant to section 3151 of the National Defense Authorization Act for fiscal year 1991; to the Committee on Armed Services.

2282. A letter from the Assistant Secretary for Indian Affairs, Department of the Interior, transmitting recommendations for amendments to Federal laws relating to native Americans, pursuant to Public Law 101-477, section 106(b) (104 Stat. 1156); to the Committee on Education and Labor.

2283. A letter from the Inspector General, Department of Defense, transmitting copies of the Army Audit Agency reports (Report Numbers NR 92-420 and NR 92-421) on its review of Superfund financial transactions for fiscal year 1990, pursuant to 31 U.S.C. 7501 note; to the Committee on Energy and Commerce.

2284. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Greece for defense articles and services (Transmittal No. 92-05), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2285. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Greece for defense articles and services (Transmittal No. 92-06), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2286. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Japan for defense articles and services (Transmittal No. 92-03), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2287. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of William Edwin Ryerson, of Virginia, to be Ambassador to the Republic of Albania, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

2288. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report required by section 701(b)(2)(f) of Public Law 100-204; to the Committee on Foreign Affairs.

2289. A letter from the Comptroller General of the United States, transmitting the results of an audit of the financial statements of the Resolution Trust Corporation for the year ended December 31, 1990; jointly, to the Committees on Banking, Finance and Urban Affairs and Government Operations.

2290. A letter from the Executive Director, Resolution Trust Corporation, transmitting the RTC's Status Report for September 1991 (The 1988-89 FSLIC Assistance Agreements); jointly, to the Committees on Banking, Finance and Urban Affairs and Appropriations.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. RUSSO (for himself, Mr. GUARINI, Ms. PELOSI, and Mr. MILLER of California):

H.R. 3680. A bill to modify the tax and budget priorities of the United States, and for other purposes; jointly, to the Committees on Ways and Means, Government Operations, Science, Space, and Technology, Post Office and Civil Service, Appropriations, Small Business, Banking, Finance and Urban Affairs, Education and Labor, Agriculture, Armed Services, and Energy and Commerce.

By Mr. WYDEN (for himself, Mr. RIDGE, Mr. GEPHARDT, Mr. THOMAS of California, Mr. SAWYER, Mr. CHANDLER, Mr. MCNULTY, Mr. FAZIO, Mr. HOYER, Mr. MARKEY, Mr. ECKART, Mr. FEIGHAN, Mr. HEFNER, Mr. KOSTMAYER, Mr. GONZALEZ, Mr. JEFFERSON, Mr. LAGOMARSINO, Ms. NORTON, Mr. MCMILLEN of Maryland, Mr. MCDADE, Mr. PAYNE of Virginia, Mr. POSHARD, Mr. RAY, Mr. MRAZEK, Mr. TORRICELLI, Mr. NEAL of Massachusetts, Mr. MURPHY, Mr. ORTIZ, Mr. FOGLIETTA, Mrs. BOXER, Mr. VENTO, Mr. CLEMENT, Mr. DE LUGO, Mr. ESPY, Mr. STAGGERS, Mr. SABO, Mr. SCHUMER, Mr. TORRES, Mr. SCHEUER, Mr. EMERSON, Mr. COOPER, Mr. BORSKI, Mr. CONYERS, Mr. SWETT, Mr. DOWNEY, Mrs. LLOYD, Mr. KOLTER, Mr. HOCHBRUECKNER, Mrs. BENTLEY, Mr. HYDE, Mr. OWENS of Utah, Mr. APPLEGATE, Mr. WASHINGTON, and Mr. RANGEL):

H.R. 3681. A bill to amend title 5, United States Code, to make election day a legal public holiday, with such holiday to be known as "Democracy Day"; to the Committee on Post Office and Civil Service.

By Mr. LANTOS:

H.R. 3682. A bill to amend the Internal Revenue Code of 1986 to provide a 3-year extension of the low-income housing credit, and for other purposes; to the Committee on Ways and Means.

H.R. 3683. A bill to establish an Assistant Secretary for Administration of the Department of Housing and Urban Development; to the Committee on Banking, Finance and Urban Affairs.

H.R. 3684. A bill to develop Federal Government performance standards and goals plans, and for other purposes; jointly, to the Committees on Government Operations and Rules.

H.R. 3685. A bill to establish the Office of Management and the Office of the Budget; to the Committee on Government Operations.

By Mr. COBLE:

H.R. 3686. A bill to amend title 28, United States Code, to make changes in the places of holding court in the Eastern District of North Carolina; to the Committee on the Judiciary.

By Mr. DREIER of California:

H.R. 3687. A bill to limit the provision of assistance to the Soviet Union under the Agricultural Trade Development and Assistance Act of 1954; to the Committee on Foreign Affairs.

By Mr. GIBBONS:

H.R. 3688. A bill to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. JOHNSTON of Florida (for himself and Mrs. BOXER):

H.R. 3689. A bill to amend the Social Security Act to provide for universal access to health benefits through a federally financed insurance program administered by States, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. MURTHA:

H.R. 3690. A bill to amend title III of the act of March 3, 1933, commonly known as the

Buy American Act, to require Federal agencies to increase domestic procurement in times of economic recession, and for other purposes; to the Committee on Government Operations.

By Mr. PERKINS:

H.R. 3691. A bill directing the Secretary of the Army to develop and implement a plan for modifying the channel bypass element of the Levisa Fork, KY, for the purpose of water quality improvement in and restoration of Pikeville Lake, KY; to the Committee on Public Works and Transportation.

By Mr. SKEEN (for himself, Mr. STALLINGS, Mr. SCHIFF, Mr. YOUNG of Alaska, Mr. DICKINSON, Mr. RHODES, and Mr. KYL):

H.R. 3692. A bill to withdraw certain public lands and to otherwise provide for the operation of the Waste Isolation Pilot Plant in Eddy County, NM, and for other purposes; jointly, to the Committees on Armed Services and Interior and Insular Affairs.

By Mr. STALLINGS (for himself and Mr. LAROCCO):

H.R. 3693. A bill to adjust the boundaries of the Targhee National Forest, to authorize a land exchange involving the Kaniksu National Forest, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. STUDDS (for himself, Mr. JONES of North Carolina, Mr. HERTEL, and Mr. DAVIS):

H.R. 3694. A bill to establish the Foundation for Ocean and Coastal Conservation in the United States, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. ZIMMER:

H.R. 3695. A bill to direct the Secretary of the Interior to conduct a study concerning the designation of the Morris and Delaware and Raritan Navigation Canals in the State of New Jersey as national heritage corridors; to the Committee on Interior and Insular Affairs.

By Mr. HERTEL (for himself and Mr. FASCELL):

H. Con. Res. 230. Concurrent resolution emphasizing the vast extent of environmental damage in the Persian Gulf region and urging expeditious steps by the United Nations to set aside funds to redress environmental and public health losses; to the Committee on Foreign Affairs.

By Mr. ROSTENKOWSKI:

H. Res. 267. Resolution returning to the Senate the bill S. 320; considered and agreed to.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 127: Mr. ANDREWS of New Jersey, Mr. SANGMEISTER, Mr. DELAY, Mr. YATES, and Mr. LEHMAN of California.

H.R. 261: Mr. SYNAR, Mr. YOUNG of Florida, Mr. POSHARD, Mr. GORDON, Mr. FALEOMAVAEGA, Mr. KOLTER, Mr. DOWNEY, and Mr. MORAN.

H.R. 312: Mr. MACHTLEY.

H.R. 430: Mr. MCCOLLUM and Mr. GIBBONS.

H.R. 608: Mr. BUSTAMANTE and Mr. WEBER.

H.R. 609: Mr. BORSKI.

H.R. 786: Mr. MOAKLEY and Ms. SLAUGHTER of New York.

H.R. 911: Mr. KOLBE, Mr. MCDADE, Mr. LEWIS of California, and Mr. OLVER.

H.R. 1063: Mr. BROWN, Mr. ANDREWS of Maine, Mr. CONYERS, Mr. MCCLOSKEY, and Mr. FROST.

H.R. 1240: Ms. NORTON, Mr. LAFALCE, and Mr. DWYER of New Jersey.

H.R. 1270: Mr. LIGHTFOOT, Mrs. LLOYD, Mr. PAYNE of Virginia, Mr. CRAMER, and Mrs. BYRON.

H.R. 1300: Mr. VENTO.

H.R. 1335: Mr. FISH and Mr. ACKERMAN.

H.R. 1389: Mr. SMITH of Florida.

H.R. 1476: Mr. PASTOR.

H.R. 1495: Mr. SLATTERY and Mr. MINETA.

H.R. 1522: Mr. ESPY, Ms. NORTON, Mrs. COLLINS of Illinois, Mr. MINETA, Mr. JOHNSTON of Florida, and Ms. PELOSI.

H.R. 1531: Mr. TORRES, Mr. CHANDLER, and Mr. JONES of Georgia.

H.R. 1546: Mr. CONDIT and Mr. DARDEN.

H.R. 1547: Mr. DARDEN.

H.R. 1633: Mr. JONES of North Carolina, Mr. STALLINGS, and Mr. SHAYS.

H.R. 1800: Mr. DREIER of California.

H.R. 2083: Mr. SCHEUER and Mr. SERRANO.

H.R. 2215: Mr. CLAY, Mr. FISH, Mr. JONES of Georgia, and Mr. WALSH.

H.R. 2257: Mr. GINGRICH.

H.R. 2326: Mr. JOHNSON of South Dakota.

H.R. 2363: Mr. LAGOMARSINO, Mr. MILLER of Washington, Mr. ANDREWS of Texas, Mr. PETERSON of Florida, and Mr. FEIGHAN.

H.R. 2415: Ms. NORTON.

H.R. 2632: Mr. SHAYS, Mr. JEFFERSON, Mr. KOSTMAYER, and Mr. LEVINE of California.

H.R. 2693: Mr. GEREN of Texas and Mr. PACKARD.

H.R. 2721: Mr. MRAZEK.

H.R. 2788: Mr. FIELDS and Mr. CRANE.

H.R. 2840: Ms. NORTON and Mr. LEVIN of Michigan.

H.R. 2862: Mr. MILLER of Washington.

H.R. 2912: Ms. NORTON, Mr. FISH, and Mr. EVANS.

H.R. 2943: Mr. FISH.

H.R. 2966: Mr. RAY, Mr. MAVROULES, Mr. DWYER of New Jersey, Mr. HATCHER, Mr. KLECZKA, and Mr. GUNDERSON.

H.R. 3070: Mr. EDWARDS of Texas, Mr. CARPER, Mr. CAMP, and Mr. VENTO.

H.R. 3084: Mr. ARMEY, Mr. DICKINSON, and Mr. LAGOMARSINO.

H.R. 3098: Mr. MORAN.

H.R. 3164: Mr. KLECZKA, Mr. PETERSON of Florida, Mr. RAHALL, Mr. ENGLISH, and Mr. VALENTINE.

H.R. 3278: Mr. MACHTLEY and Mr. ROE.

H.R. 3286: Mr. ECKART.

H.R. 3344: Mr. LAFALCE.

H.R. 3361: Mrs. JOHNSON of Connecticut.

H.R. 3373: Mr. DOOLEY, Mr. OWENS of Utah, Mr. MARTINEZ, Mr. WOLF, Ms. KAPTUR, Mr. ZELIFF, Mr. RIGGS, and Mrs. JOHNSON of Connecticut.

H.R. 3376: Mr. DANNEMEYER.

H.R. 3429: Mr. FALEOMAVAEGA, Mr. JOHNSTON of Florida, Mr. DWYER of New Jersey, and Mr. DEFAZIO.

H.R. 3443: Mr. SANTORUM.

H.R. 3487: Mr. GINGRICH, Mr. LEWIS of California, Mr. IRELAND, Mr. BAKER, Mr. STEARNS, Mr. ZELIFF, Mr. MACHTLEY, Mr. WYDEN, Mr. BOEHNER, Mr. RAMSTAD, Mr. LIVINGSTON, Mr. REGULA, Mr. HENRY, Ms. SNOWE, Mr. CAMP, Mrs. JOHNSON of Connecticut, Mr. THOMAS of Wyoming, and Mr. BURTON of Indiana.

H.R. 3504: Mr. HORTON, Mr. PETERSON of Florida, Mr. ROGERS, and Mr. JEFFERSON.

H.R. 3510: Mr. SMITH of New Jersey, Mrs. ROUKEMA, and Mr. DWYER of New Jersey.

H.R. 3511: Mr. OWENS of Utah, Mr. REED, Mr. OLVER, Ms. KAPTUR, Mr. ANDREWS of New Jersey, Mr. STALLINGS, Mr. SLATTERY, Mr. KOPETSKI, Mr. PALLONE, Mr. ATKINS, Mr. STARK, Mr. JOHNSON of South Dakota, Mr. MOLLOHAN, Mr. ESPY, Mr. HOAGLAND, and Ms. NORTON.

H.R. 3516: Mrs. VUCANOVICH.

H.R. 3553: Mrs. COLLINS of Michigan.

H.R. 3595: Mr. SISISKY, Mr. WHEAT, Mr. DELLUMS, Mr. PAYNE of New Jersey, Mr. ALEXANDER, Mr. SABO, and Mr. PORTER.

H.R. 3627: Mr. MAVROULES, Mr. HORTON, Mr. GINGRICH, Mr. MONTGOMERY, Mr. DORNAN of California, Mr. RITTER, Mr. RHODES, Mr. LAGOMARSINO, Ms. KAPTUR, and Mr. LANCASTER.

H.J. Res. 152: Mr. VANDER JAGT.

H.J. Res. 177: Mr. KLECZKA, Mr. FIELDS, Mr. LEVINE of California, Mr. WILSON, and Mr. MYERS of Indiana.

H.J. Res. 312: Mr. MILLER of Ohio, Mr. NEAL of Massachusetts, Mr. JOHNSTON of Florida, Mr. VALENTINE, Mr. COLEMAN of Texas, Mr. SHAW, Mr. MOODY, Mr. BREWSTER, Mr. FLAKE, Mr. MILLER of Washington, Mr. RAY, Mr. BERMAN, Mr. MOAKLEY, Mr. SOLARZ, Mr. BARTON of Texas, Mr. THOMAS of California, Mr. BUSTAMANTE, Mr. STUMP, Mrs. MEYERS of Kansas, Mr. CHANDLER, Mrs. BENTLEY, Mr. EVANS, Mr. GINGRICH, Mr. SKELTON, Mr. JONTZ, Mr. LEWIS of California, and Mrs. PATTERSON.

H.J. Res. 318: Mr. MATSUI, Mr. MINETA, Mr. PAXON, Mr. BROWDER, Mr. DE LUGO, Mr. MCGRATH, Mr. KLECZKA, Mr. PASTOR, Mr. ACKERMAN, Mr. MANTON, Mr. SMITH of New Jersey, Mr. FISH, and Mr. DE LA GARZA.

H.J. Res. 343: Mr. ATKINS, Mr. CONYERS, Mr. DWYER of New Jersey, Mr. FASCELL, Mr. HARRIS, Mr. HEFNER, Mr. HUTTO, Mr. IRELAND, Mr. KASICH, Mr. KILDEE, Mr. LEWIS of Georgia, Mr. NOWAK, Mr. OWENS of Utah, Mr. PARKER, Ms. PELOSI, Mr. PRICE, Mr. SCHEUER, Mr. SMITH of New Jersey, Mr. SOLARZ, Mr. STUDDS, Mr. TORRICELLI, Mr. VENTO, and Mr. YATRON.

H.J. Res. 361: Mr. LOWERY of California, Mr. OWENS of Utah, Mr. KILDEE, Mr. NEAL of Massachusetts, Mr. OBERSTAR, Mr. SMITH of Texas, Mr. REGULA, Mr. DEFAZIO, Mr. RAMSTAD, Mr. BILBRAY, Mr. LIPINSKI, Mr. GUARINI, Mr. CLEMENT, Mr. DICKS, Mr. MARTINEZ, Mr. MCGRATH, Mr. VOLKMER, and Mr. EMERSON.

H. Con. Res. 156: Mr. FISH, Mr. FEIGHAN, Mr. SWETT, Mr. BERMAN, Mr. SMITH of New Jersey, Mr. GUARINI, and Mr. VENTO.

H. Con. Res. 192: Mr. SHAYS, Mr. SWETT, Mr. DWYER of New Jersey, Mr. AUCOIN, Mr. NAGLE, Mr. PRICE, Mr. VALENTINE, Mr. CAMPBELL of Colorado, Mr. BUNNING, Mr. BROWN, Mr. BREWSTER, Mr. DICKS, Ms. NORTON, Mr. OLVER, Mr. COOPER, Mr. MILLER of California, Mr. GEJDENSON, Mr. DURBIN, and Mr. COSTELLO.

H. Con. Res. 211: Ms. SLAUGHTER of New York and Mr. MINETA.

H. Con. Res. 218: Mr. HOLLOWAY and Mr. BURTON of Indiana.

H. Con. Res. 226: Mr. SHAYS, Mr. MAVROULES, Ms. ROS-LEHTINEN, Mr. GEJDENSON, Mr. LEHMAN of Florida, Mr. BACCHUS, Mr. ACKERMAN, Mr. MRAZEK, Mr. HORTON, Mr. SIKORSKI, Mr. PAYNE of Virginia, Mr. DWYER of New Jersey, Mr. TORRES, Mr. SCHIFF, Mr. TOWNS, Mr. RAY, and Mr. PALLONE.

H. Con. Res. 227: Mr. SANGMEISTER and Mr. MILLER of California.

H. Res. 41: Mr. SHAYS.

H. Res. 234: Mr. SANGMEISTER.

H. Res. 257: Mr. BREWSTER, Mr. DERRICK, Mr. BOEHNER, Mr. VALENTINE, and Mr. LAGOMARSINO.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

[Omitted from the Record of Oct. 24, 1991]

H.R. 1330: Mr. DERRICK.